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

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

(B) Before the performance takes place, the person responsible for the performance receives written confirmation of the Notice, bearing the actual handwritten signature of each copyright owner or duly authorized agent.

(3) The date of service is the date the Notice of Objection is received by the person responsible for the performance or any agent or employee of that person.

(Pub. L. 94-553; 17 U.S.C. 110(4), 702)

[42 FR 64684, Dec. 28, 1977]

§ 201.14 Warnings of copyright for use by certain libraries and archives.

(a) *Definitions.* (1) A *Display Warning of Copyright* is a notice under paragraphs (d)(2) and (e)(2) of section 108 of title 17 of the United States Code as amended by Pub. L. 94-553. As required by those sections the "Display Warning of Copyright" is to be displayed at the place where orders for copies or phonorecords are accepted by certain libraries and archives.

(2) An *Order Warning of Copyright* is a notice under paragraphs (d)(2) and (e)(2) of section 108 of title 17 of the United States Code as amended by Pub. L. 94-553. As required by those sections the "Order Warning of Copyright" is to be included on printed forms supplied by certain libraries and archives and used by their patrons for ordering copies or phonorecords.

(b) *Contents.* A Display Warning of Copyright and an Order Warning of Copyright shall consist of a verbatim reproduction of the following notice, printed in such size and form and displayed in such manner as to comply with paragraph (c) of this section:

NOTICE WARNING CONCERNING COPYRIGHT
RESTRICTIONS

The copyright law of the United States (title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material.

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Under certain conditions specified in the law, libraries and archives are authorized to furnish a photocopy or other reproduction. One of these specific conditions is that the photocopy or reproduction is not to be "used for any purpose other than private study, scholarship, or research." If a user makes a request for, or later uses, a photocopy or reproduction for purposes in excess of "fair use," that user may be liable for copyright infringement.

This institution reserves the right to refuse to accept a copying order if, in its judgment, fulfillment of the order would involve violation of copyright law.

(c) *Form and manner of use.* (1) A Display Warning of Copyright shall be printed on heavy paper or other durable material in type at least 18 points in size, and shall be displayed prominently, in such manner and location as to be clearly visible, legible, and comprehensible to a casual observer within the immediate vicinity of the place where orders are accepted.

(2) An Order Warning of Copyright shall be printed within a box located prominently on the order form itself, either on the front side of the form or immediately adjacent to the space calling for the name or signature of the person using the form. The notice shall be printed in type size no smaller than that used predominantly throughout the form, and in no case shall the type size be smaller than 8 points. The notice shall be printed in such manner as to be clearly legible, comprehensible, and readily apparent to a casual reader of the form.

(Pub. L. 94-553; 17 U.S.C. 108, 702)

[42 FR 59265, Nov. 16, 1977]

§ 201.15 Special handling of pending claims requiring expedited processing for purposes of litigation.

(a) Special Handling is the expedited processing of an application for registration of a claim to copyright or for the recordation of a document pertaining to copyright. It is granted in cases where a compelling need for the service exists due to pending or prospective litigation, customs matters, or contract or publishing deadlines that necessitate the expedited issuance of a certificate of registration.

(b) *Fee.* The fee for Special Handling is set forth at section 201.3(d) of this chapter.

(c) *Waiver of fee.* When no action (including communication from the Copyright Office) has been taken on an application for registration within six months after the time the application, fee and deposit were received by the Copyright Office, the applicant may request Special Handling of the application and request that the fee for Special Handling be waived. The fee may be waived only when the applicant satisfies the Copyright Office that the applicant is about to file suit for infringement of the copyright in a work that is the subject of the application.

(d) *Form of request for Special Handling and for waiver of fee.* A request for Special Handling and for a waiver of the Special Handling fee must be submitted in the form of an affidavit or declaration under penalty of perjury pursuant to 28 U.S.C. 1746, signed by either the applicant or an attorney acting on behalf of the applicant, which

(1) Provides the following information relating to the application for registration:

(i) The exact title of the work for which registration is sought, as reflected on the application;

(ii) The name(s) of the author(s) of the work, as reflected on the application;

(iii) The name(s) of claimants, as reflected on the application;

(iv) The date the application was submitted to the Copyright Office;

(v) The means (*e.g.*, by hand delivery, by electronic submission, by first class mail, by Express Mail, or by registered or certified mail) by which the application was submitted to the Copyright Office; and

(vi) A description of the material deposited for registration, to assist in identifying the deposit;

(2) Includes a copy of the application that was submitted to the Copyright Office, or states that the applicant does not have access to a copy of the application;

(3) States that the applicant or a person acting with the authorization of the applicant is about to file suit for infringement of the copyright in a work that is the subject of the application;

(4) Identifies the defendant(s) and the court in which the suit will be filed; and

(5) Includes a copy of the complaint for copyright infringement that the applicant or a person acting with the authorization of the applicant intends to file in a United States District Court or the United States Court of Federal Claims. The copy of the complaint may omit allegations identifying the certificate of copyright registration, but must otherwise be complete.

(e) *Submission of request for Special Handling and for waiver of fee.* The materials identified in paragraph (d) of this section may be delivered to the Copyright Office by hand or by United States Postal Service Express Mail. Delivery by regular United States mail or overnight delivery services such as Federal Express and United Parcel Service cannot be accepted. The materials shall be delivered as follows:

(1) *By hand.* (i) If hand-delivered by a private party, the materials shall be placed in an envelope addressed to "Request for Waiver of Special Handling Fee, Office of the General Counsel, U.S. Copyright Office" and brought to the James Madison Building, Library of Congress, U.S. Copyright Office, Room 401, 101 Independence Avenue, SE, Washington, DC 20559, between 8:30 a.m. and 5 p.m. E.D.T.

(ii) If hand-delivered by a commercial courier, the materials shall be placed in an envelope or package, no larger than 12 inches by 18 inches by 4 inches, addressed to "Request for Waiver of Special Handling Fee, Office of the General Counsel, U.S. Copyright Office, LM 403, James Madison Building, Library of Congress, 101 Independence Avenue, SE, Washington, DC 20559" and delivered to the Congressional Courier Acceptance Site ("CCAS"), located at 2nd and D Streets, NE, Washington, DC between 8:30 a.m. and 4 p.m.

(2) *By Express Mail.* If sent by Express Mail, the materials should be placed in an envelope or package, no larger than 12 inches by 18 inches by 4 inches, addressed to "Request for Waiver of Special Handling Fee, Office of the General

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Counsel, U.S. Copyright Office, Copyright GC/I&R, P.O. Box 70400, Washington, DC 20024,” and deposited with the United States Postal Service.

[74 FR 39902, Aug. 10, 2009]

EFFECTIVE DATE NOTE: At 74 FR 39902, Aug. 10, 2009, §201.15 was added, effective Aug. 10, 2009 through July 1, 2011.

§ 201.16 [Reserved]

§ 201.17 Statements of Account covering compulsory licenses for secondary transmissions by cable systems.

(a) *General.* This section prescribes rules pertaining to the deposit of Statements of Account and royalty fees in the Copyright Office as required by section 111(d)(2) of title 17 of the United States Code in order for secondary transmissions of cable systems to be subject to compulsory licensing.

(b) *Definitions.* (1) Gross receipts for the “basic service of providing secondary transmissions of primary broadcast transmitters” include the full amount of monthly (or other periodic) service fees for any and all services or tiers of services which include one or more secondary transmissions of television or radio broadcast signals, for additional set fees, and for converter fees. In no case shall gross receipts be less than the cost of obtaining the signals of primary broadcast transmitters for subsequent retransmission. All such gross receipts shall be aggregated and the distant signal equivalent (DSE) calculations shall be made against the aggregated amount. Gross receipts for secondary transmission services do not include installation (including connection, relocation, disconnection, or reconnection) fees, separate charges for security, alarm or facsimile services, charges for late payments, or charges for pay cable or other program origination services: *Provided That*, the origination services are not offered in combination with secondary transmission service for a single fee.

(2) A *cable system* is a facility, located in any State, Territory, Trust Territory, or Possession, that in whole or in part receives signals transmitted or programs broadcast by one or more television broadcast stations licensed by

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the Federal Communications Commission, and makes secondary transmissions of such signals or programs by wires, cables, microwave, or other communications channels to subscribing members of the public who pay for such service. A system that meets this definition is considered a “cable system” for copyright purposes, even if the FCC excludes it from being considered a “cable system” because of the number or nature of its subscribers or the nature of its secondary transmissions. The Statements of Account and royalty fees to be deposited under §201.17 of this section, shall be recorded and deposited by each individual cable system desiring its secondary transmissions to be subject to compulsory licensing. The owner of each individual cable system on the last day of the accounting period covered by a Statement of Account is responsible for depositing the Statement of Account and remitting the copyright royalty fees. For these purposes, and the purpose of §201.17 of this section, an “individual” cable system is each cable system recognized as a distinct entity under the rules, regulations, and practices of the Federal Communications Commission in effect on the last day of the accounting period covered by a Statement of Account, in the case of the preparation and deposit of a Statement of Account and copyright royalty fee. For these purposes, two or more cable facilities are considered as one individual cable system if the facilities are either:

(i) In contiguous communities under common ownership or control or

(ii) Operating from one headend.

(3) *FCC* means the Federal Communications Commission.

(4) In the case of cable systems which make secondary transmissions of all available FM radio signals, which signals are not electronically processed by the system as separate and discrete signals, an FM radio signal is “generally receivable” if:

(i) It is usually carried by the system whenever it is received at the system’s headend, and

(ii) As a result of monitoring at reasonable times and intervals, it can be expected to be received at the system’s headend, with the system’s FM antenna, at least three consecutive hours