

preparation of a search report, certification of certain Copyright Office records, or location and retrieval of records, in instances where the request is withdrawn before work is begun by the staff member responsible for providing the service, the Copyright Office will retain half of the hourly charge for administrative expenses, and refund the remaining portion of the fee subject to paragraph (c)(1) of this section. In addition, the fee for an estimate of a search fee is non-refundable. This policy applies to requests to the Records Research and Certification Section, and requests to the Licensing Section.

(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 use in 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; 74 FR 32809, July 9, 2009; 76 FR 9231, Feb. 17, 2011; 82 FR 9356, Feb. 6, 2017; 86 FR 32642, June 22, 2021]

§ 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 regula-

tions, 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 insufficiently creative 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 sent, 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 U.S. copyright law, 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 applicant 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

§ 201.8

37 CFR Ch. II (7–1–22 Edition)

receives no reply to its correspondence within 30 days of the date the letter is sent, 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 examples of 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) A work is not anonymous or pseudonymous and statements on the application and/or copy vary so much that the author cannot be identified.

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

(xi) The requirements for registering a group of related works under section 408(c) of title 17 of the United States Code have not been met.

(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 through correspondence with the applicant. 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; 82 FR 9356, Feb. 6, 2017; 82 FR 29413, June 29, 2017; 85 FR 19667, Apr. 8, 2020]

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

(a) *Declaration of disruption.* 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, including a disruption or suspension of a Copyright Office electronic system, that has delayed the receipt by the Copyright Office of applications, fees, deposits, 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, and may provide specific instructions on how to make a request under paragraph (b)(1) of this section.

(b) *Request for earlier filing date due to disruption—(1) When the Register has declared a disruption.* When the Register has made a declaration of disruption