

means the latest year in which the creation of any copyrightable element was completed.

\* \* \* \* \*

■ 5. Amend § 202.4 as follows:

- a. Add paragraph (c).
- b. In paragraph (h)(8), remove the second sentence, which is in parentheses.
- c. In paragraph (h)(9), remove the second sentence.
- d. In paragraph (i)(9), remove the second sentence.
- e. In paragraph (n), remove “paragraph (g), (h), (i), or (k)” and add in its place “paragraphs (c), (g), (h), (i), or (k)”.

The addition reads as follows:

**§ 202.4 Group registration.**

\* \* \* \* \*

(c) *Group registration of unpublished works.* Pursuant to the authority granted by 17 U.S.C. 408(c)(1), the Register of Copyrights has determined that a group of unpublished works may be registered in Class TX, PA, VA, or SR with one application, the required deposit, and the filing fee required by § 201.3(c) of this chapter, if the following conditions are met:

(1) All the works in the group must be unpublished, and they must be registered in the same administrative class.

(2) Generally, the applicant may include up to ten works in the group. If the conditions set forth in § 202.3(b)(1)(iv)(A) through (C) have been met, the applicant may include up to ten sound recordings and ten musical works, literary works, or dramatic works in the group.

(3) The group may include individual works, joint works, or derivative works, but may not include compilations, collective works, databases, or websites.

(4) The applicant must provide a title for each work in the group.

(5) All the works must be created by the same author or the same joint authors, and the author and claimant information for each work must be the same.

(6) The works may be registered as anonymous works, pseudonymous works, or works made for hire if they are identified in the application as such.

(7) The applicant must identify the authorship that each author or joint author contributed to the works, and the authorship statement for each author or joint author must be the same. Claims in the selection, coordination, or arrangement of the group as a whole will not be permitted on the application.

(8) The applicant must complete and submit the online application

designated for a group of unpublished works. The application may be submitted by any of the parties listed in § 202.3(c)(1).

(9) The applicant must submit one complete copy or phonorecord of each work. Each work must be contained in a separate electronic file that complies with § 202.20(b)(2)(iii). The files must be submitted in one of the electronic formats approved by the Office, they must be assembled in an orderly form, and they must be uploaded to the electronic registration system. The file size for each uploaded file must not exceed 500 megabytes; the files may be compressed to comply with this requirement.

(10) In an exceptional case, the Copyright Office may waive the online filing requirement set forth in paragraph (c)(8) of this section or may grant special relief from the deposit requirement under § 202.20(d), subject to such conditions as the Associate Register and Director of the Office of Registration Policy and Practice may impose on the applicant.

\* \* \* \* \*

■ 6. Amend § 202.6 as follows:

- a. Redesignate paragraphs (e)(2) through (7) as paragraphs (e)(3) through (8).
- b. In newly redesignated paragraph (e)(8), remove “paragraph (e)(1)” and add in its place “paragraph (e)(1) or (2)”.
- c. Add new paragraph (e)(2).

The addition reads as follows:

**§ 202.6 Supplementary registration.**

\* \* \* \* \*

(e) \* \* \*

(2) To seek a supplementary registration for a group of unpublished works registered under § 202.4(c), an applicant must complete and submit the online application designated for supplementary registration after consultation with and under the direction of the Office of Registration Policy & Practice.

\* \* \* \* \*

**§ 202.20 [Amended]**

- 7. Amend § 202.20(c)(2)(vii)(D)(8) by removing the fourth sentence.

Dated: January 28, 2019.

**Karyn A. Temple,**

*Acting Register of Copyrights and Director of the U.S. Copyright Office.*

Approved by:

**Carla D. Hayden,**

*Librarian of Congress.*

[FR Doc. 2019–02185 Filed 2–12–19; 8:45 am]

**BILLING CODE 1410–30–P**

**LIBRARY OF CONGRESS**

**Copyright Office**

**37 CFR Part 202**

[Docket No. 2017–16]

**Group Registration of Newspapers**

**AGENCY:** U.S. Copyright Office, Library of Congress.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Copyright Office is amending its regulation governing the group registration option for newspaper issues. This rule will eliminate the three-month deadline for submitting this type of claim. Based on requests received from several newspaper publishers, the Office has determined that there is a legitimate need to make this change effective immediately.

**DATES:** Effective February 18, 2019.

**FOR FURTHER INFORMATION CONTACT:** Regan A. Smith, General Counsel and Associate Register of Copyrights; Robert J. Kasunic, Associate Register of Copyrights and Director of Registration Policy and Practice; or Erik Bertin, Deputy Director of Registration Policy and Practice, by telephone at 202–707–8040 or by email at [regans@copyright.gov](mailto:regans@copyright.gov) and [ebertin@copyright.gov](mailto:ebertin@copyright.gov).

**SUPPLEMENTARY INFORMATION:** In 1992 the Copyright Office established a group registration option that allows newspaper publishers to register an entire month of issues with one application and one filing fee.<sup>1</sup> Initially, applicants were required to submit a paper application and submit microfilm deposit copies, and they had to submit these materials within three months after the publication of the most recent issue in the group.<sup>2</sup> This deadline was intended to benefit the Library of Congress by ensuring that newspaper issues could be added to its collections and made available to its patrons in a timely manner. But newspaper publishers often submitted their claims after the three-month deadline due to the high cost of producing microfilm. Many publishers could not afford to send their newspapers to a microfilm producer until they had a sufficient number of issues to justify the cost, which delayed the production and delivery of the microfilm.<sup>3</sup>

Last year the Office updated its regulation governing this group registration option.<sup>4</sup> Under the current

<sup>1</sup> 57 FR 39615 (Sept. 1, 1992).

<sup>2</sup> 37 CFR 202.3(b)(6)(F) (1992).

<sup>3</sup> 82 FR 51369, 51378 (Nov. 6, 2017).

<sup>4</sup> 83 FR 4144 (Jan. 30, 2018).

rule, a publisher may register a group of newspapers if the applicant submits the claim using the appropriate electronic application and submits a PDF copy of each issue within three months after the publication of the earliest issue in the group.<sup>5</sup> Unlike the paper application, the electronic registration system contains automated validations that enforce this three-month deadline.

Since the Office implemented these new requirements, several newspaper publishers have reported difficulty and delays in creating PDF copies. Many publishers have not been able to submit their claims before the three-month deadline. And some publishers have attempted to bypass the validations in the electronic system by submitting a paper application and microfilm copies. The Office has refused to register these claims, because they were submitted on a paper form and with the wrong deposit, or because they were received after the deadline. On average, it takes three months or more to process a paper application and a physical deposit,<sup>6</sup> so by the time the Office has issued a refusal, the publisher may not have an opportunity to resubmit their claim on the appropriate form and with an appropriate deposit.

To address these problems and ensure that newspaper publishers can obtain the statutory benefits of registration, the Office has decided to eliminate the three-month filing requirement. This will provide more flexibility for applicants, and allow them to register issues that otherwise would be ineligible for registration. The Office will remove the automated validation that prevents publishers from submitting issues that are more than three months old. Beginning on February 18, 2019, publishers will be permitted to submit claims through the electronic registration system, regardless of when their issues were published. Likewise, publishers may electronically resubmit claims that were refused because they were filed on a paper form or without a digital deposit, or because they were received after the three month deadline. To do so, publishers must submit a new application (using the electronic form designated for newspaper issues), a new digital deposit, and a new filing fee.

<sup>5</sup> 37 CFR 202.4(e). The new deadline was based on the date of publication for the earliest issue in the group (rather than the most recent) for the reasons stated in the notice of proposed rulemaking dated November 6, 2017. See 82 FR at 51377–78.

<sup>6</sup> See U.S. Copyright Office, *Registration Processing Times*, available at <https://www.copyright.gov/registration/docs/processing-times-faqs.pdf>.

The Office will monitor this change to the rule to determine whether it succeeds in incentivizing increased registrations and to ensure that it does not have an adverse effect on the Library's collections. In the meantime, the Office has prepared a video tutorial that provides step-by-step instructions on how to complete the electronic application and upload digital copies.<sup>7</sup> The help text that accompanies the application also provides answers to frequently asked questions.<sup>8</sup> And the Office has published a circular that provides detailed information about the group registration process.<sup>9</sup>

The Office still encourages publishers to submit their claims within three months of publication, because it may provide certain legal benefits. To seek statutory damages and attorney's fees in an infringement action, publishers must register their issues in a timely manner. Specifically, a publisher typically may seek these remedies if a newspaper issue was registered (i) before the infringement commenced or (ii) within three months after the first publication of that work. See 17 U.S.C. 412.

The Office finds there is good cause for adopting this amendment without first publishing a notice of proposed rulemaking, because it is a "rule[]" of agency organization, procedure, or practice.<sup>10</sup> It does not adversely "alter the rights or interests of parties"—if anything, it eases the requirements for applicants choosing to exercise this option by removing the time restriction on its availability.<sup>11</sup> It therefore merely "alter[s] the manner in which the parties present themselves . . . to the agency."<sup>12</sup> *Id.* Thus, notice and comment is not required under the Administrative Procedure Act.

All other provisions in the current regulation on group registration of newspapers remain unaffected.

#### List of Subjects in 37 CFR Part 202

Copyright.

For the reasons set forth above, the Copyright Office amends 37 CFR part 202 as follows:

<sup>7</sup> See *Group of Newspaper Issues Tutorial*, U.S. Copyright Office, <https://www.copyright.gov/eco/newspaper.mp4>.

<sup>8</sup> See *Help: Group Registration of Newspaper Issues*, U.S. Copyright Office, <https://www.copyright.gov/eco/help-newspapers.html>.

<sup>9</sup> See U.S. Copyright Office, *Circular 62A: Group Registration of Newspapers* (2018), available at <https://www.copyright.gov/circs/circ62a.pdf>.

<sup>10</sup> 5 U.S.C. 553(b)(A).

<sup>11</sup> *JEM Broad. Co. v. FCC*, 22 F.3d 320, 326 (D.C. Cir. 1994); see also 5 U.S.C. 553(d)(1) (publication 30 days before effective date of substantive rule not required for rule that "grants or recognizes an exemption or relieves a restriction").

<sup>12</sup> *JEM Broad. Co.*, 22 F.3d at 326.

## PART 202—PREREGISTRATION AND REGISTRATION OF CLAIMS TO COPYRIGHT

■ 1. The authority citation for part 202 continues to read as follows:

**Authority:** 17 U.S.C. 408(f), 702.

### § 202.4 [Amended]

■ 2. Amend § 202.4 by removing paragraph (e)(7).

Dated: January 31, 2019.

**Karyn A. Temple,**

*Acting Register of Copyrights and Director Of the U.S. Copyright Office.*

Approved by:

**Carla D. Hayden,**

*Librarian of Congress.*

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## LIBRARY OF CONGRESS

### Copyright Office

#### 37 CFR Part 203

[Docket No. 2017–1]

### Freedom of Information Act Regulations

**AGENCY:** U.S. Copyright Office, Library of Congress.

**ACTION:** Final rule.

**SUMMARY:** The U.S. Copyright Office is issuing a final rule that amends its regulations governing its practices and procedures under the Freedom of Information Act (FOIA). The final rule closely follows the February 7, 2017 interim rule, implementing the FOIA Improvement Act of 2016. The final rule makes limited modifications to align with public comments and to promote further regulatory clarity and customer service.

**DATES:** *Effective date:* March 15, 2019.

**FOR FURTHER INFORMATION CONTACT:** Regan A. Smith, General Counsel and Associate Register of Copyrights, by email at [regans@copyright.gov](mailto:regans@copyright.gov), or by telephone at 202–707–8350; or Catherine Zaller Rowland, Associate Register of Copyrights and Director of Public Information and Education, by email at [crowland@copyright.gov](mailto:crowland@copyright.gov), or by telephone at 202–707–0956.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

The Freedom of Information Act (FOIA), section 552 of title 5 of the United States Code, provides a statutory right of access to federal agency records. In part, FOIA establishes procedures by