

Copyright Laws and Regulations

upon request and payment of the fees specified by section 708

(b) Copies or reproductions of deposited articles retained under the control of the Copyright Office shall be authorized or furnished only under the conditions specified by the Copyright Office regulations.

(Pub. L. 94-553, title I, Sec. 101, Oct. 19, 1976, 90 Stat. 2592.)

17 U.S.C. 707 Copyright Office forms and publications

(a) **Catalog of Copyright Entries.** - The Register of Copyrights shall compile and publish at periodic intervals catalogs of all copyright registrations. These catalogs shall be divided into parts in accordance with the various classes of works, and the Register has discretion to determine, on the basis of practicability and usefulness, the form and frequency of publication of each particular part.

(b) **Other Publications.** - The Register shall furnish, free of charge upon request, application forms for copyright registration and general informational material in connection with the functions of the Copyright Office. The Register also has the authority to publish compilations of information, bibliographies, and other material he or she considers to be of value to the public.

(c) **Distribution of Publications.** - All publications of the Copyright Office shall be furnished to depository libraries as specified under section 1905 of title 44, and, aside from those furnished free of charge, shall be offered for sale to the public at prices based on the cost of reproduction and distribution.

(Pub. L. 94-553, title I, Sec. 101, Oct. 19, 1976, 90 Stat. 2592.)

17 U.S.C. 708 Copyright Office fees

(a) The following fees shall be paid to the Register of Copyrights:

- (1) on filing each application under section 408 for registration of a copyright claim or for a supplementary registration, including the issuance of a certificate of registration if registration is made, \$20;
- (2) on filing each application for registration of a claim for renewal of a subsisting copyright under section 304(a), including the issuance of a certificate of registration if registration is made, \$20;
- (3) for the issuance of a receipt for a deposit under section 407, \$4;
- (4) for the recordation, as provided by section 205, of a transfer of copyright ownership or other document covering not more than one title, \$20; for additional titles, \$10 for each group of not more than 10 titles;
- (5) for the filing, under section 115(b), of a notice of intention to obtain a compulsory license, \$12;
- (6) for the recordation, under section 302(c), of a statement revealing the identity of an author of an anonymous or pseudonymous work, or for the recordation, under section 302(d), of a statement relating to the death of an author, \$20 for a document covering not more than one title; for each additional title, \$2;
- (7) for the issuance, under section 706, of an additional certificate of registration, \$\$;
- (8) for the issuance of any other certification, \$20 for each hour or fraction of an hour consumed with respect thereto;
- (9) for the making and reporting of a search as provided by section 705, and for any related services, \$20 for each hour or fraction of an hour consumed with respect thereto; and
- (10) for any other special services requiring a substantial amount of time or expense, such fees as the Register of Copyrights may fix on the basis of the cost of providing the service. The Register of Copyrights is authorized to fix the fees for preparing copies of Copyright Office records, whether or not such copies are certified, on the basis of the cost of such preparation.

Copyright Laws and Regulations

(b) In calendar year 1995 and in each subsequent fifth calendar year, the Register of Copyrights, by regulation, may increase the fees specified in subsection (a) by the percent change in the annual average, for the preceding calendar year, of the Consumer Price Index published by the Bureau of Labor Statistics, over the annual average of the Consumer Price Index for the fifth calendar year preceding the calendar year in which such increase is authorized.

(c) The fees prescribed by or under this section are applicable to the United States Government and any of its agencies, employees, or officers, but the Register of Copyrights has discretion to waive the requirement of this subsection in occasional or isolated cases involving relatively small amounts.

(d) All fees received under this section shall be deposited by the Register of Copyrights in the Treasury of the United States and shall be credited to the appropriation for necessary expenses of the Copyright Office. The Register may, in accordance with regulations that he or she shall prescribe, refund any sum paid by mistake or in excess of the fee required by this section.

(Pub. L. 94-553, title I, Sec. 101, Oct. 19, 1976, 90 Stat. 2593; Pub. L. 95-94, title IV, Sec. 406(b), Aug. 5, 1977, 91 Stat. 682; Pub. L. 97-366, Sec. 1, Oct. 25, 1982, 96 Stat. 1759; Pub. L. 101-318, Sec. 2(a), (b), July 3, 1990, 104 Stat. 287, 288; Pub. L. 102-307, title I, Sec. 102(f), June 26, 1992, 106 Stat. 266.)

17 U.S.C. 709 Delay in delivery caused by disruption of postal or other services

In any case in which the Register of Copyrights determines, on the basis of such evidence as the Register may by regulation require, that a deposit, application, fee, or any other material to be delivered to the Copyright Office by a particular date, would have been received in the Copyright Office in due time except for a general disruption or suspension of postal or other transportation or communications services, the actual receipt of such material in the Copyright Office within one month after the date on which the Register determines that the disruption or suspension of such services has terminated, shall be considered timely.

(Pub. L. 94-553, title I, Sec. 101, Oct. 19, 1976, 90 Stat. 2594.)

**17 U.S.C. 710 Reproduction for use of the blind and physically handicapped:
Voluntary licensing forms and procedures**

The Register of Copyrights shall, after consultation with the Chief of the Division for the Blind and Physically Handicapped and other appropriate officials of the Library of Congress, establish by regulation standardized forms and procedures by which, at the time applications covering certain specified categories of nondramatic literary works are submitted for registration under section 408 of this title, the copyright owner may voluntarily grant to the Library of Congress a license to reproduce the copyrighted work by means of Braille or similar tactile symbols, or by fixation of a reading of the work in a phonorecord, or both, and to distribute the resulting copies or phonorecords solely for the use of the blind and physically handicapped and under limited conditions to be specified in the standardized forms.

(Pub. L. 94-553, title I, Sec. 101, Oct. 19, 1976, 90 Stat. 2594.)

CHAPTER 8-COPYRIGHT ARBITRATION ROYALTY PANELS

Sec.

801. Copyright arbitration royalty panels: establishment and purpose.

802. Membership and proceedings of copyright arbitration royalty panels.

803. Institution and conclusion of proceedings.

17 U.S.C. 801 Copyright arbitration royalty panels: Establishment and purpose

(a) Establishment.--The Librarian of Congress, upon the recommendation of the Register of Copyrights, is authorized to appoint and convene copyright arbitration royalty panels.

(b) Purposes.--Subject to the provisions of this chapter, the purposes of the copyright arbitration royalty panels shall be-

- (1) to make determinations concerning the adjustment of reasonable copyright royalty rates as provided in sections 114, 115 and 116, and to make determinations as to reasonable terms and rates of royalty payments as provided in section 118. The rates applicable under sections 114, 115 and 116 shall be calculated to achieve the following objectives:
 - (A) To maximize the availability of creative works to the public;
 - (B) To afford the copyright owner a fair return for his creative work and the copyright user a fair income under existing economic conditions;
 - (C) To reflect the relative roles of the copyright owner and the copyright user in the product made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, risk, and contribution to the opening of new markets for creative expression and media for their communication;
 - (D) To minimize any disruptive impact on the structure of the industries involved and on generally prevailing industry practices.
- (2) to make determinations concerning the adjustment of the copyright royalty rates in section 111 solely in accordance with the following provisions:
 - (A) The rates established by section 111(d)(1)(B) may be adjusted to reflect
 - (i) national monetary inflation or deflation or
 - (ii) changes in the average rates charged cable subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar level of the royalty fee per subscriber which existed as of the date of enactment of this Act: Provided, That if the average rates charged cable system subscribers for the basic service of providing secondary transmissions are changed so that the average rates exceed national monetary inflation, no change in the rates established by section 111(d)(1)(B) shall be permitted: And provided further, That no increase in the royalty fee shall be permitted based on any reduction in the average number of distant signal equivalents per subscriber. The copyright arbitration royalty panels may consider all factors relating to the maintenance of such level of payments including, as an extenuating factor, whether the cable industry has been restrained by subscriber rate regulating authorities from increasing the rates for the basic service of providing secondary transmissions.
 - (B) In the event that the rules and regulations of the Federal Communications Commission are amended at any time after April 15, 1976, to permit the carriage by cable systems of additional television broadcast signals beyond the local service area of the primary transmitters of such signals, the royalty rates established by section 111(d)(1)(B) may be adjusted to insure

Copyright Laws and Regulations

that the rates for the additional distant signal equivalents resulting from such carriage are reasonable in the light of the changes effected by the amendment to such rules and regulations. In determining the reasonableness of rates proposed following an amendment of Federal Communications Commission rules and regulations, the copyright arbitration royalty panels shall consider, among other factors, the economic impact on copyright owners and users: Provided, That no adjustment in royalty rates shall be made under this subclause with respect to any distant signal equivalent or fraction thereof represented by

- (i) carriage of any signal permitted under the rules and regulations of the Federal Communications Commission in effect on April 15, 1976, or the carriage of a signal of the same type (that is, independent, network, or noncommercial educational) substituted for such permitted signal, or
- (ii) a television broadcast signal first carried after April 15, 1976, pursuant to an individual waiver of the rules and regulations of the Federal Communications Commission, as such rules and regulations were in effect on April 15, 1976.

(C) In the event of any change in the rules and regulations of the Federal Communications Commission with respect to syndicated and sports program exclusivity after April 15, 1976, the rates established by section 111(d)(1)(B) may be adjusted to assure that such rates are reasonable in light of the changes to such rules and regulations, but any such adjustment shall apply only to the affected television broadcast signals carried on those systems affected by the change.

(D) The gross receipts limitations established by section 111(d)(1)(C) and (D) shall be adjusted to reflect national monetary inflation or deflation or changes in the average rates charged cable system subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar value of the exemption provided by such section; and the royalty rate specified therein shall not be subject to adjustment; and

- (3) to distribute royalty fees deposited with the Register of Copyrights under sections 111, 116, 119(b), and 1003, and to determine, in cases where controversy exists, the distribution of such fees.

(c) Rulings.--The Librarian of Congress, upon the recommendation of the Register of Copyrights, may, before a copyright arbitration royalty panel is convened, make any necessary procedural or evidentiary rulings that would apply to the proceedings conducted by such panel.

(d) Administrative Support of Copyright Arbitration Royalty Panels.--The Library of Congress, upon the recommendation of the Register of Copyrights, shall provide the copyright arbitration royalty panels with the necessary administrative services related to proceedings under this chapter.

(Pub. L. 94-553, title I, Sec. 101, Oct. 19, 1976, 90 Stat. 2594; Pub. L. 99-397, Sec. 2(c), (d), Aug. 27, 1986, 100 Stat. 848; Pub. L. 100-568, Sec. 11(1), Oct. 31, 1988, 102 Stat. 2860; Pub. L. 100-667, title II, Sec. 202(4), Nov. 16, 1988, 102 Stat. 3958; Pub. L. 101-318, Sec. 3(b), July 3, 1990, 104 Stat. 288; Pub. L. 102-563, Sec. 3(a)(1), Oct. 28, 1992, 106 Stat. 4247; Pub. L. 103-198, Sec. 2(a), Dec. 17, 1993, 107 Stat. 2304.)

17 U.S.C. 802 Membership and proceedings of copyright arbitration royalty panels

(a) Composition of Copyright Arbitration Royalty Panels. - A copyright arbitration royalty panel shall consist of 3 arbitrators selected by the Librarian of Congress pursuant to subsection (b).

(b) Selection of Arbitration Panel. - Not later than 10 days after publication of a notice in the Federal Register initiating an arbitration proceeding under section 803, and in accordance with procedures specified by the Register of Copyrights, the Librarian of Congress shall, upon the recommendation of the Register of Copyrights, select 2 arbitrators from lists provided by professional arbitration associations. Qualifications of the arbitrators shall include experience in conducting arbitration proceedings and facilitating the resolution and settlement of disputes, and any

Copyright Laws and Regulations

qualifications which the Librarian of Congress, upon the recommendation of the Register of Copyrights, shall adopt by regulation. The 2 arbitrators so selected shall, within 10 days after their selection, choose a third arbitrator from the same lists, who shall serve as the chairperson of the arbitrators. If such 2 arbitrators fail to agree upon the selection of a third arbitrator, the Librarian of Congress shall promptly select the third arbitrator. The Librarian of Congress, upon the recommendation of the Register of Copyrights, shall adopt regulations regarding standards of conduct which shall govern arbitrators and the proceedings under this chapter.

(c) **Arbitration Proceedings.** - Copyright arbitration royalty panels shall conduct arbitration proceedings, subject to subchapter II of chapter 5 of title 5, for the purpose of making their determinations in carrying out the purposes set forth in section 801. The arbitration panels shall act on the basis of a fully documented written record, prior decisions of the Copyright Royalty Tribunal, prior copyright arbitration panel determinations, and rulings by the Librarian of Congress under section 801(c). Any copyright owner who claims to be entitled to royalties under section 111, 114, 116, or 119, any person entitled to a compulsory license under section 114(d), any person entitled to a compulsory license under section 115, or any interested copyright party who claims to be entitled to royalties under section 1006, may submit relevant information and proposals to the arbitration panels in proceedings applicable to such copyright owner or interested copyright party, and any other person participating in arbitration proceedings may submit such relevant information and proposals to the arbitration panel conducting the proceedings. In ratemaking proceedings, the parties to the proceedings shall bear the entire cost thereof in such manner and proportion as the arbitration panels shall direct. In distribution proceedings, the parties shall bear the cost in direct proportion to their share of the distribution.

(d) **Procedures.** - Effective on the date of the enactment of the Copyright Royalty Tribunal Reform Act of 1993, the Librarian of Congress shall adopt the rules and regulations set forth in chapter 3 of title 37 of the Code of Federal Regulations to govern proceedings under this chapter. Such rules and regulations shall remain in effect unless and until the Librarian, upon the recommendation of the Register of Copyrights, adopts supplemental or superseding regulations under subchapter II of chapter 5 of title 5.

(e) **Report to the Librarian of Congress.** - Not later than 180 days after publication of the notice in the Federal Register initiating an arbitration proceeding, the copyright arbitration royalty panel conducting the proceeding shall report to the Librarian of Congress its determination concerning the royalty fee or distribution of royalty fees, as the case may be. Such report shall be accompanied by the written record, and shall set forth the facts that the arbitration panel found relevant to its determination.

(f) **Action by Librarian of Congress.** - Within 60 days after receiving the report of a copyright arbitration royalty panel under subsection (e), the Librarian of Congress, upon the recommendation of the Register of Copyrights, shall adopt or reject the determination of the arbitration panel. The Librarian shall adopt the determination of the arbitration panel unless the Librarian finds that the determination is arbitrary or contrary to the applicable provisions of this title. If the Librarian rejects the determination of the arbitration panel, the Librarian shall, before the end of that 60-day period, and after full examination of the record created in the arbitration proceeding, issue an order setting the royalty fee or distribution of fees, as the case may be. The Librarian shall cause to be published in the Federal Register the determination of the arbitration panel, and the decision of the Librarian (including an order issued under the preceding sentence). The Librarian shall also publicize such determination and decision in such other manner as the Librarian considers appropriate. The Librarian shall also make the report of the arbitration panel and the accompanying record available for public inspection and copying.

(g) **Judicial Review.** - Any decision of the Librarian of Congress under subsection (f) with respect to a determination of an arbitration panel may be appealed, by any aggrieved party who would be bound by the determination, to the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the publication of the decision in the Federal Register. If no appeal is brought within such 30-day period, the decision of the Librarian is final, and the royalty fee or determination with respect to the distribution of fees, as the case may be, shall take effect as set forth in the decision. The pendency of an appeal under this paragraph shall not relieve persons obligated to make royalty payments under sections 111, 114, 115, 116, 118, 119, or 1003 who would be affected by the determination on appeal to deposit the statement of account and royalty fees