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claimant or owner of exclusive rights in, the work, or the duly authorized agent of such author, other claimant, or owner (whose identity shall also be given);

- (ii) the handwritten signature of such author, other claimant, owner, or agent, accompanied by the typed or printed name of that person;
- (iii) a declaration that the statements made in the application are correct to the best of that person's knowledge; and
- (iv) the date of certification.

An application for registration of a published work will not be accepted if the date of certification is earlier than the date of publication given in the application.

(Pub. L. 94-553; secs. 408, 409, 410, 702)

[43 FR 966, Jan. 5, 1978; as amended at 54 FR 13181, Mar. 31, 1989; 54 FR 21059, May 16, 1989; 55 FR 50557, Dec. 7, 1990; 56 FR 7813, 7815 Feb. 26, 1991; 56 FR 27197, June 13, 1991; 56 FR 59885, Nov. 26, 1991; 56 FR 65190, Dec. 16, 1991; 57 FR 39616, Sept. 1, 1992; 58 FR 17778, Apr. 6, 1993]

37 CFR 202.4 Effective date of registration.

The effective date of registration for claims received in the Copyright Office on or after January 3, 1991, and through December 31, 1991, with a short fee of \$10 is the date on which the application, deposit, and \$10 fee have all been received in the Copyright Office, provided, the claim is later determined to be acceptable for registration by the Register of Copyrights and a supplementary fee of \$10 is received in the Copyright Office. If the supplementary fee is not received promptly after notification of the short fee, the Copyright Office will initiate a proceeding to cancel the copyright registration. If the supplementary fee of \$10 is not received in the Copyright Office before the cancellation proceeding is completed, the cancellation will become final and will result in the loss of the effective date of registration. After cancellation, registration could be obtained only by submitting a new application, deposit, and filing fee.

[55 FR 50001, Dec. 4, 1990]

§§ 202.5-202.9 [Reserved]**37 CFR 202.10 Pictorial, graphic, and sculptural works.**

(a) In order to be acceptable as a pictorial, graphic, or sculptural work, the work must embody some creative authorship in its delineation or form. The registrability of such a work is not affected by the intention of the author as to the use of the work or the number of copies reproduced. The potential availability of protection under the design patent law will not affect the registrability of a pictorial, graphic, or sculptural work, but a copyright claim in a patented design or in the drawings or photographs in a patent application will not be registered after the patent has been issued.

(b) A claim to copyright in a scientific or technical drawing, otherwise registrable as a pictorial, graphic, or sculptural work, will not be refused registration solely by reason of the fact that it is known to form a part of a pending patent application. Where the patent has been issued, however, the claim to copyright in the drawing will be denied copyright registration.

(c) A claim to copyright cannot be registered in a print or label consisting solely of trademark subject matter and lacking copyrightable matter. While the Copyright Office will not investigate whether the matter has been or can be registered at the Patent and Trademark Office, it will register a properly filed copyright claim in a print or label that contains the requisite qualifications for copyright even though there is a trademark on it. However, registration of a claim to copyright does not give the claimant rights available by trademark registrations at the Patent and Trademark Office.

[46 FR 33249, June 29, 1981]

37 CFR 202.11 Architectural works.

- (a) General. This section prescribes rules pertaining to the registration of architectural works,

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as provided for in the amendment of title 17 of the United States Code by the Judicial Improvements Act of 1990, Public Law 101-650.

(b) Definitions

- (1) For the purposes of this section, the term architectural work has the same meaning as set forth in section 101 of title 17, as amended.
- (2) The term building means humanly habitable structures that are intended to be both permanent and stationary, such as houses and office buildings, and other permanent and stationary structures designed for human occupancy, including but not limited to churches, museums, gazebos, and garden pavilions.

(c) Registration--

- (1) Original design. In general, an original design of a building embodied in any tangible medium of expression, including a building, architectural plans, or drawings, may be registered as an architectural work.
- (2) Registration limited to single architectural work. For published and unpublished architectural works, a single application may cover only a single architectural work. A group of architectural works may not be registered on a single application form. For works such as tract housing, a single work is one house model, with all accompanying floor plan options, elevations, and styles that are applicable to that particular model.
- (3) Application form. Registration should be sought on Form VA. Line one of the form should give the title of the building. The date of construction of the building, if any, should also be designated. If the building has not yet been constructed, the notation "not yet constructed" should be given following the title.
- (4) Separate registration for plans. Where dual copyright claims exist in technical drawings and the architectural work depicted in the drawings, any claims with respect to the technical drawings and architectural work must be registered separately.
- (5) Publication. Publication of an architectural work occurs when underlying plans or drawings of the building or other copies of the building design are distributed or made available to the general public by sale or other transfer of ownership, or by rental, lease, or lending. Construction of a building does not itself constitute publication for purposes of registration, unless multiple copies are constructed.

(d) Works excluded. The following structures, features, or works cannot be registered:

- (1) Structures other than buildings. Structures other than buildings, such as bridges, cloverleaves, dams, walkways, tents, recreational vehicles, mobile homes, and boats.
- (2) Standard features. Standard configurations of spaces, and individual standard features, such as windows, doors, and other staple building components.
- (3) Pre-December 1, 1990 building designs. The designs of buildings where the plans or drawings of the building were published before December 1, 1990, or the buildings were constructed or otherwise published before December 1, 1990.

[57 FR 45310, Oct. 1, 1992]

§§ 202.12-202.16 [Reserved]

37 CFR 202.17 Renewals.

(a) General. This section prescribes rules pertaining to the application for renewal copyright under section 304(a) of title 17 of the United States Code, as amended by Public Law 102-307.

(b) Definition. For purposes of this section, the term posthumous work means a work that was unpublished on the date of the death of the author and with respect to which no copyright assignment or other contract for exploitation of the work occurred during the author's lifetime.

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(c) Renewal registration optional. For works originally copyrighted between January 1, 1964 and December 31, 1977 renewal registration is optional and not a condition for securing copyright for the new and extended forty-seven year second term. As provided in Public Law 102-307, 106 Stat. 264 (Act of June 26, 1992), however, renewal of copyright by registration during the last year of the original term and renewal registration during the forty-seven year extended term of a copyright renewed without registration by operation of Public Law 102-307 differ in legal effect. Among other effects, renewal of copyright by registration during the last year of the original term vests the renewal copyright in the statutory renewal claimant(s) living on the date of registration.

(d) Original term registration

- (1) Registration of a claim to copyright in the original twenty-eight year term is not a pre-condition for making a renewal registration, provided the renewal application is accompanied by an Addendum to Form RE and the deposit copy, phonorecord, or identifying material specified in paragraph (h) of this section.
- (2) Original term registration can only be made before the expiration of the original term of copyright in the work.

(e) Renewal time limits.

- (1) For works originally copyrighted between January 1, 1964, and December 31, 1977, claims to renewal copyright may be registered within the last year of the original term, which begins on December 31 of the 27th year of the copyright, and runs through December 31 of the 28th year of the copyright, or at anytime during the extended forty-seven year second term, if the second term is renewed by operation of Public Law 102-307, 106 Stat. 264. The original copyright term for a published work is computed from the date of first publication; the term for a work originally registered in unpublished form is computed from the date of registration in the Copyright Office. To vest the renewal copyright by registration, the required renewal application, fee, and, if original term registration has not been made, the Addendum specified in paragraph (h) of this section must be received in the Copyright Office during the prescribed period before the first term of copyright expires. The Copyright Office has no discretion to extend the renewal time limits for vesting of the renewal copyright by registration.
- (2) The provisions of paragraph (e)(1) of this section are subject to the following qualification: In order to vest the renewal copyright by registration in any case where the year date in the notice on copies distributed by authority of the copyright owner is earlier than the year of first publication, claims to renewal copyright must be registered within the last year of the original copyright term, which begins on December 31 of the 27th year from the year contained in the notice, and runs through December 31 of the 28th year from the year contained in the notice.
- (3) Whenever a renewal applicant has cause to believe that a formal application for renewal, which is intended to vest the renewal copyright by registration, and any accompanying Addendum relating to subsistence of first-term copyright, if sent to the Copyright Office by mail, might not be received in the Copyright Office before expiration of the time limits provided by 17 U.S.C. 304(a) for vesting of the renewal copyright by registration, he or she may apply for renewal registration by telegraphic, telefacsimile, or similar written communication. An application made by this method will be accepted only if:
 - (i) The message is received in the Copyright Office within the specified time limits for vesting by registration;
 - (ii) The applicant adequately identifies the work involved, the date of first publication or original registration, the name and address of the renewal claimant, and the statutory basis of the renewal claim;
 - (iii) The fee for renewal registration, if not already on deposit, is received in the Copyright Office before the time for renewal registration has expired; and

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- (iv) A formal application for renewal (Form RE) (or a fax copy) and in the case of works under paragraph (h) of this section, an accompanying Addendum relating to the subsistence of first-term copyright are also received in the Copyright Office before April 1 of the following year.
- (f) Renewal claimants
- (1) Except as otherwise provided by paragraphs (f)(2) and (3) of this section, renewal claims may be registered only in the name(s) of the eligible person(s) falling within one of the following classes of renewal claimants specified in section 304(a) of the copyright law. If the work was a new version of a previous work, renewal may be claimed only in the new matter. If the renewal claim is submitted during the last year of the original term of copyright, the renewal must be made in the name(s) of the statutory claimant(s) entitled to claim the renewal on the date the renewal claim is submitted to the Copyright Office for registration. If the renewal claim is submitted during the forty-seven year renewal term, the renewal claim can only be registered in the name(s) of the statutory claimant(s) entitled to claim the renewal on the last day (December 31st) of the original term of copyright.
 - (i) In the case of any posthumous work or of any periodical, encyclopedia, or other composite work upon which the copyright was originally secured by the proprietor thereof, the renewal claim may be registered in the name of the proprietor;
 - (ii) In the case of any work copyrighted by a corporate body (otherwise than as assignees or licensees of the individual author) or by an employer for whom such work is made for hire, the renewal claim may be registered in the name of the proprietor; and
 - (iii) In the case of any other copyrighted work, including a contribution by an individual author to a periodical or to a cyclopedic or other composite work, the renewal claim may be registered in the name(s) of the following person(s) in descending order of eligibility:
 - (A) The author of the work, if still living;
 - (B) The widow, widower, or children of the author, if the author is not living;
 - (C) The author's executors, if there is a will and neither the author nor any widow, widower, or child of the author is living;
 - (D) The author's next of kin, in the absence of a will and if neither the author nor any widow, widower, or child of the author is living.
 - (2) The provisions of paragraph (f)(1) are subject to the following qualification: Notwithstanding the definition of "posthumous work" in paragraph (b) of this section, a renewal claim may be registered in the name of the proprietor of the work, as well as in the name of the appropriate claimant under paragraph (f)(1)(iii), in any case where a contract for exploitation of the work but no copyright assignment in the work has occurred during the author's lifetime. However, registration by the Copyright Office in this case should not be interpreted as evidencing the validity of the claim.
 - (3) The provisions of paragraphs (f)(1)(iii)(C) and (D) of this section are subject to the following qualifications:
 - (i) In any case where:
 - (A) The author has left a will which names no executor;
 - (B) The author has left a will which names an executor who cannot or will not serve in that capacity; or
 - (C) The author has left a will which names an executor who has been discharged upon settlement of the estate or removed before the estate has been completely administered, the renewal claim may be

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registered either in the name of an administrator cum testamento annexo (administrator c.t.a.) or an administrator de bonis non cum testamento annexo (administrator d.b.n.c.t.a.) so appointed by a court of competent jurisdiction.

- (ii) In any case described in paragraph (f)(3)(i) of this section, except in the case where the author has left a will without naming an executor and a court appointed administrator c.t.a. or administrator d.b.n.c.t.a. is in existence at the time of renewal registration, the renewal claim also may be registered in the name of the author's next of kin. However, registration by the Copyright Office of the conflicting renewal claims in these cases should not be interpreted as evidencing the validity of either claim.
- (g) Application for renewal registration
- (1) Each application for renewal registration shall be submitted on Form RE. Copies of Form RE, and if applicable, the Addendum to Form RE, are available free upon request to the Public Information Office, United States Copyright Office, Library of Congress, Washington, DC 20559.
 - (2)(i) An application for renewal registration may be submitted by any eligible statutory renewal claimant as specified in paragraph (f) of this section or by the duly authorized agent of any such claimant.
 - (ii) An application for renewal registration shall be accompanied by a fee of \$20. The application shall contain the information required by the form and its accompanying instructions, and shall include a certification. The certification shall consist of:
 - (A) A designation of whether the applicant is the renewal claimant, or the duly authorized agent of such claimant (whose identity shall also be given);
 - (B) The handwritten signature of such claimant or agent, accompanied by the typewritten or printed name of that person;
 - (C) A declaration that the statements made in the application are correct to the best of that person's knowledge; and
 - (D) The date of certification.
 - (iii) In the case of an application for renewal registration of a work for which no original registration was made, the application shall be accompanied by an Addendum and deposit material in accordance with paragraph (h) of this section.
 - (3) Once a renewal registration has been made, the Copyright Office will not accept a duplicate application for renewal registration on behalf of the same renewal claimant.
- (h) Addendum for an unregistered work--
- (1) Content. If original term registration is not timely made for a work, the renewal application Form RE must be accompanied by an Addendum to Form RE which must contain the following information:
 - (i) The title of the work;
 - (ii) The name of the author(s);
 - (iii) The date of first publication of the work;
 - (iv) The place of first publication of the work;
 - (v) The citizenship of the author(s) on the date of first publication of the work;
 - (vi) The domicile of the author(s) on the date of first publication of the work;

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- (vii) An averment that, at the time of first publication, all the copies of the work published under the authority of the author or other copyright proprietor bore the copyright notice required by the Copyright Act of 1909, title 17 of the United States Code in effect on December 31, 1977, and that United States copyright subsists in the work; and
 - (viii) For works of United States origin which were subject to the manufacturing provisions of section 16 of the Copyright Act of 1909 as it existed at the time the work was published, the Addendum must also contain information about the country of manufacture and the manufacturing processes.
- (2) Signature. The Addendum must contain the handwritten signature of the renewal claimant or the duly authorized agent of the renewal claimant. The signature shall
- (i) be accompanied by the printed typewritten name of the person signing the Addendum and by the date of the signature; and
 - (ii) shall be immediately preceded by the following printed or typewritten statement in accordance with section 1746 of title 28 of the United States Code:

I certify under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.
- (3) Deposit requirement for an unregistered work. In addition to the Addendum to Form RE, an application for renewal registration of a work for which no original term registration is made must be accompanied by one copy or phonorecord or identifying material of the work as first published in accordance with the deposit requirements set out in sections 202.20 and 202.21 of the Copyright Office regulations for basic registration.
- (4) Waiver of the deposit requirement. In a case where the renewal applicant asserts that it is either physically impossible or otherwise an undue hardship to satisfy the deposit requirements of §§1A202.20 and 202.21, the Copyright Office, at its discretion, may, upon receipt of an acceptable explanation of the inability to submit such copy or identifying material, permit the deposit of the following in the descending order of preference:
- (i) A reprint, photocopy, or identifying reproduction of the work as first published; or
 - (ii)(A) A photocopy of the title page of the work as first published;
 - (B) A photocopy of the page of the work as first published bearing the copyright notice;
 - (C) A specification as to the location, relative to each other, of the title and notice pages of the work as first published, if the pages are different; and
 - (D) A brief description of the copyrightable content of the work, which is sufficient to enable the Copyright Office to examine the work. The Examining Division of the Copyright Office may request deposit of additional descriptive material if the original submission is inadequate.

[57 FR 60483, Dec. 21, 1992]

37 CFR 202.18 Effective date of renewal registration.

The effective date for registration of renewal claims eligible for registration during 1991 and received in the Copyright Office during 1991 with a short fee of \$6 is the date on which the application and the \$6 fee have been received in the Copyright Office, provided the claim is later determined to be acceptable for registration by the Register of Copyrights and a supplementary fee of \$6 is received in the Copyright Office within 45 days after notification of the short fee. Renewal

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applications submitted with a short fee of \$6 will not be assigned a registration number until the supplementary fee of \$6 is submitted. If the supplementary fee of \$6 is not received in the Copyright Office within 45 days after notification of the short fee, the Copyright Office will not complete the registration. In no case will supplementary fees received after March 31, 1992 be accepted, for the 1991 renewal year.

[56 FR 65002, Dec. 13, 1991]

37 CFR 202.19 Deposit of published copies or phonorecords for the Library of Congress.

(a) General. This section prescribes rules pertaining to the deposit of copies and phonorecords of published works for the Library of Congress under section 407 of title 17 of the United States Code, as amended by Pub. L. 94-553. The provisions of this section are not applicable to the deposit of copies and phonorecords for purposes of copyright registration under section 408 of title 17, except as expressly adopted in § 202.20 of these regulations.

(b) Definitions. For the purposes of this section:

- (1)(i) The best edition of a work is the edition, published in the United States at any time before the date of deposit, that the Library of Congress determines to be most suitable for its purposes.
 - (ii) Criteria for selection of the "best edition" from among two or more published editions of the same version of the same work are set forth in the statement entitled "Best Edition of Published Copyrighted Works for the Collections of the Library of Congress" (hereafter referred to as the "Best Edition Statement") in effect at the time of deposit. Copies of the Best Edition Statement are available upon request made to the Deposits and Acquisitions Division of the Copyright Office.
 - (iii) Where no specific criteria for the selection of the "best edition" are established in the Best Edition Statement, that edition which, in the judgment of the Library of Congress, represents the highest quality for its purposes shall be considered the "best edition". In such cases:
 - (A) When the Copyright Office is aware that two or more editions of a work have been published it will consult with other appropriate officials of the Library of Congress to obtain instructions as to the "best edition" and (except in cases for which special relief is granted) will require deposit of that edition; and
 - (B) When a potential depositor is uncertain which of two or more published editions comprises the "best edition", inquiry should be made to the Deposits and Acquisitions Division of the Copyright Office.
 - (iv) Where differences between two or more "editions" of a work represent variations in copyrightable content, each edition is considered a separate version, and hence a different work, for the purpose of this section, and criteria of "best edition" based on such differences do not apply.
- (2) A complete copy includes all elements comprising the unit of publication of the best edition of the work, including elements that, if considered separately, would not be copyrightable subject matter or would otherwise be exempt from mandatory deposit requirements under paragraph (c) of this section. In the case of sound recordings, a "complete" phonorecord includes the phonorecord, together with any printed or other visually perceptible material published with such phonorecord (such as textual or pictorial matter appearing on record sleeves or album covers, or embodied in leaflets or booklets included in a sleeve, album, or other container). In the case of a musical composition published in copies only, or in both copies and phonorecords:
 - (i) If the only publication of copies in the United States took place by the

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rental, lease, or lending of a full score and parts, a full score is a "complete" copy; and

- (ii) If the only publication of copies in the United States took place by the rental, lease, or lending of a conductor's score and parts, a conductor's score is a "complete" copy.

In the case of a motion picture, a copy is "complete" if the reproduction of all of the visual and aural elements comprising the copyrightable subject matter in the work is clean, undamaged, undeteriorated, and free of splices, and if the copy itself and its physical housing are free of any defects that would interfere with the performance of the work or that would cause mechanical, visual, or audible defects or distortions.

- (3) The terms architectural works, copies, collective work, device, fixed, literary work, machine, motion picture, phonorecord, publication, sound recording, useful article, and their variant forms, have the meanings given to them in 17 U.S.C. 101.

(c) Exemptions from deposit requirements. The following categories of material are exempt from the deposit requirements of section 407(a) of title 17:

- (1) Diagrams and models illustrating scientific or technical works or formulating scientific or technical information in linear or three-dimensional form, such as an architectural or engineering blueprint, plan, or design, a mechanical drawing, or an anatomical model.
- (2) Greeting cards, picture postcards, and stationery.
- (3) Lectures, sermons, speeches, and addresses when published individually and not as a collection of the works of one or more authors.
- (4) Literary, dramatic, and musical works published only as embodied in phonorecords. This category does not exempt the owner of copyright, or of the exclusive right of publication, in a sound recording resulting from the fixation of such works in a phonorecord from the applicable deposit requirements for the sound recording.
- (5) Automated databases available only on-line in the United States. The exemption does not include the following: automated databases distributed in the form of machine-readable copies (such as magnetic tape or disks, CD-ROM formats, punch cards, or the like); computerized information works in the nature of statistical compendia, serials, and reference works; works published in a form requiring the use of a machine or device for purposes of optical enlargement (such as film, filmstrips, slide films and works published in any variety of microform); works published in visually perceptible form but used in connection with optical scanning devices; and works reproduced in CD-ROM formats.
- (6) Three-dimensional sculptural works, and any works published only as reproduced in or on jewelry, dolls, toys, games, plaques, floor coverings, wallpaper and similar commercial wall coverings, textiles and other fabrics, packaging material, or any useful article. Globes, relief models, and similar cartographic representations of area are not within this category and are subject to the applicable deposit requirements.
- (7) Prints, labels, and other advertising matter, including catalogs, published in connection with the rental lease, lending, licensing, or sale of articles of merchandise, works of authorship, or services.
- (8) Tests, and answer material for tests when published separately from other literary works.
- (9) Works first published as individual contributions to collective works. This category does not exempt the owner of copyright, or of the exclusive right of publication, in the collective work as a whole, from the applicable deposit requirements for the