Before the
United States Copyright Office
Washington, D.C. 20559

In the Matter of	)	**Comments of the Motion Picture Association of American to David Carson, Esq.**
Preregistration of Certain Unpublished Copyright Claims – Notice of Proposed Rulemaking	)	**70 Fed. Reg. 42,286 (July 22, 2005) (and as amended Aug. 4, 2005)**

I am pleased to submit the following comment on behalf of the Motion Picture Association of America ("MPAA") in response to the Notice of Proposed Rulemaking ("NPR") referenced above.

MPAA represents producers and distributors of theatrical motion pictures, home video material, and television programs. MPAA members include: Buena Vista Pictures Distribution; Metro-Goldwyn-Mayer Studios Inc.; Paramount Pictures Corporation; Sony Pictures Entertainment Inc.; Twentieth Century Fox Film Corporation; Universal City Studios LLLP; and Warner Bros. Entertainment Inc.

MPAA's members have been especially vulnerable to pre-release piracy of their motion pictures and television productions, as well as piracy that occurs on the day of and immediately after release of their works. As such, we appreciate Congress' urgent attention to this matter including the adoption of additional criminal penalties focused on pre-release pirates, as well as new preregistration practices. We appreciate as well the Copyright Office's efforts on behalf of motion picture and television producers whose pre-release materials are pirated, both under existing expedited registration practices, and now, under the new proposed rulemaking for preregistrations to facilitate civil actions and more effective remedies.

We offer the following comments on the issues raised by the Copyright Office in its proposed rulemaking and to address questions posed in the Federal Register notice:

1. Classes of Works Eligible for Preregistration

Section 202.16(b)(1)(i) of the regulation proposed by the Copyright Office includes as a class of works eligible for preregistration, "[a] motion picture subject to a theatrical distribution contract with an established distributor of motion pictures."[1]

MPAA fully supports the Office's proposal to include motion pictures as an eligible class of works for preregistration. As the legislative history of the ART Act[2] and the Copyright

[1] Notice of Proposed Rulemaking, 70 Fed. Reg. 42,286, 42,291 (July 22, 2005) ("NPR").

Office's NPR states, motion pictures have been particularly vulnerable to pre-release piracy. However, the vulnerability to wide-scale piracy prior to authorized release extends to motion pictures whether first released in theaters, or in home video format, or via television, or on-line.

The Copyright Office notice provides that

> although this notice proposes to include motion pictures, sound recordings and musical works among the eligible classes, the burden remains on proponents of those three classes of works to make the case to the Office that these classes of works have indeed experienced a history of pre-release infringement. Proponents of any class should be prepared to demonstrate that there is a substantial history of pre-release infringement which is likely to continue, causing harm to copyright owners that can be ameliorated by permitting preregistration of such works.[3]

In fact, as evidenced below, there is a substantial history of pre-release infringement of theatrical motion pictures, and in addition, television programs and direct-to-video programming. For the reasons explained below, we believe the Copyright Office should extend its preregistration practices to include all of these works.

Looking to the future, we anticipate that when motion pictures are produced for direct-to-the Internet distribution, these works will be as or more vulnerable to pre-release piracy than works released by existing distribution networks. At such time, we would recommend that the Copyright Office add these works to its preregistration practices as an eligible class of works. (In addition, we would urge the Copyright Office to develop more time efficient regular electronic registration systems for all works that will allow the issuance of same-day registration certificates to assist copyright owners in need of immediate judicial relief).

A. Motion Pictures First Released in Theaters

There are plenty of examples of films being pirated prior to theatrical release to satisfy the requirement of their inclusion in the eligible class of works for preregistrations.

One example, included in the Copyright Office's NPR, was the pre-release piracy of the theatrical film, "The Hulk," a major motion picture which was slated for wide release in the summer of 2003. Two weeks before its opening release in theaters it was pirated by a third party who uploaded an incomplete working print version of the film onto the Internet. The Copyright Office went to extraordinary lengths to assist with an expedited registration on the day of theatrical release of "The Hulk." Ultimately, a criminal conviction resulted (against the uploader), and jurisdiction and remedies were secured. However, preregistration is necessary for films because Copyright Office same-day registrations are not the norm; without preregistration, copyright owners face denial or delay of effective action, including civil jurisdiction (§ 411(a)), and certain remedies (§ 412).

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[2] Pub. L. No. 109-9, 119 Stat. 218 (2005) (enacted as Title I of the Family Entertainment and Copyright Act of 2005).
[3] Id. at 42,288.

Other examples of pre-release theatrical piracy include: "Brother Bear" which was pirated four days before its theatrical release (in 2003); "Starsky and Hutch" which was pirated ten days before its theatrical release and sold on DVDs nationwide; "Shall We Dance" which was pirated fifteen days before its theatrical release; "Finding Neverland" which was pirated nineteen days before its theatrical release; and "The Aviator" which was pirated two days before its theatrical release. This type of piracy is unfortunately common for major feature film releases.

One issue not directly addressed in the NPR or in the proposed rules is the treatment of works first commercially released abroad, and later released in the United States by a different distributor. With the high cost of producing and distributing feature motion pictures, there is a growing trend to split distribution rights. Motion pictures first released theatrically abroad are subject to the same forms of piracy in the U.S. as pre-release films here, and could benefit from preregistration. For example, "Transporter 2" was released in theaters in France by Europe Corp. on August 3, 2005 and was immediately camcorded and uploaded onto the Internet, with copies readily available in the U.S. Twentieth Century Fox Film Corporation will be releasing the picture in the U.S. on September 2, but its version was not completed when the film was pirated in France. In another example of theatrical piracy of a film first released abroad, "The Interpreter" was pirated on March 4, 2005, one month before its first theatrical release (abroad) on April 4; it was first released in the U.S. on April 22, 2005. MPAA recommends that preregistrations be permitted in these instances.

Pre-release piracy of films on video and DVD is unfortunately likely to continue, in large part because it is a very lucrative business for organized crime syndicates.[4] So too is the leaking of all or portions of upcoming films onto the Internet whether done for profit or mischief. All these forms of piracy cause substantial economic harm to copyright owners. The ability of one of the thousands of contributors to or other third parties involved in the creation, advertising, exhibition or other exploitation of a major motion picture to leak all or portions of a film before its release, even with the best of security methods, requires effective civil and criminal enforcement tools. The opportunity to make a preregistration of these works under the new Copyright Office procedures will ensure that copyright owners are best able to utilize existing remedies to fight pre- and post-release piracy and recoup a portion of the economic losses that result. In short, the preregistration practice will serve as one additional tool in the anti-piracy arsenal of copyright owners.

As noted, the above instances are just some of the recent examples of a consistent and unfortunate pattern of films being pirated prior to their theatrical release. Should the Copyright Office require additional examples, MPAA will be happy to provide them. Notwithstanding the unquestioned sufficiency of this evidence, MPAA believes that the Copyright Office's evidentiary focus is rendered too narrow when it states (in the NPR) that the definition of a "work being prepared for commercial distribution" in section 103(a) of the ART Act "presumably has no weight in determining what is a 'work being prepared for commercial

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[4] *See Evaluating International Intellectual Property Piracy: Hearing Before the Senate Comm. on Foreign Relations,* 108th Cong. (2004); *International Copyright Piracy: A Growing Problem with Links to Organized Crime and Terrorism: Hearing Before the Subcomm. on the Courts, the Internet, and Intellectual Property of the House Comm. on the Judiciary*, 108th Cong. (2003).

distribution' for purposes of preregistration."[5] "The normal rule of statutory construction assumes that 'identical words used in different parts of the same act are intended to have the same meaning.'"[6]

Piracy of major motion pictures is not limited to pre-release piracy, of course, and the benefits of preregistration can aid in anti-piracy efforts for films pirated not only before a theatrical release, but also for the more common piracy that occurs on the day of or immediately after the day of theatrical release. Congress was cognizant of and addressed this broader problem of motion picture piracy in the ART Act, including in section 103 by defining a work "being prepared for commercial distribution" for purposes of criminal pre-release infringement to include a motion picture that has been released for theatrical exhibition but not yet made available in copies for sale to the general public in the home video market.[7] Congress was addressing the very same underlying problem of pre-release piracy in section 103 *and* section 104 of the ART Act.

The Copyright Office notes that "Section 104 of the ART Act was drafted with section 1201's 'class of works' provision in mind" even though the latter was for an unrelated law and purpose, and preceded the ART Act by seven years. By contrast, Congress employed the term "work being prepared for commercial distribution" in two consecutive sections of the same law (sections 103 and 104 of the ART Act). Surely the argument is much stronger that Congress had the same concept in mind in both instances and that therefore the section 103 definitions ought to be applied in construing section 104. The Copyright Office need not decide this issue in order to find, as it proposes in the NPR, that motion pictures should be included within the classes of works eligible for preregistration. MPAA simply urges the Copyright Office not to exclude unnecessarily from consideration, now or in the future, the vast evidence of motion picture piracy that invariably occurs the day of or immediately after the day of theatrical release as it seeks to determine what "classes of works" are eligible for (and would benefit from) preregistration.

In addition to piracy of the audiovisual materials themselves, underlying works such as scripts and other production materials have been stolen and uploaded onto the Internet even before principal photography has begun. For example, part of the screenplay (but not the final shooting script) for an upcoming sequel to the "X-Men" films was pirated and uploaded to the Internet months before shooting began. The harm done to this film, with new characters and elements of its story line revealed to the public, is incalculable. Thus, the proposed preregistration provisions for "motion pictures" should be applied to all the elements of the motion picture, including, for example, the screenplay, soundtrack, and special effects, to permit film producers in the future to collect statutory damages and attorney's fees for these types of infringements.

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[5] NPR, at 42,289 (emphasis added).
[6] *Sorenson v. Secretary of Treasury*, 475 U.S. 851, 860 (1986) (citations omitted).
[7] Artists Rights and Theft Prevention Act of 2005, Pub. L. No. 109-9 § 103(a), 119 Stat. 218, 220 (codified at 17 U.S.C. § 506(a)(1)(C) (2005)).

B. Television and Direct-to-Video Productions Should be Included

17 U.S.C. § 408(f)(2) states that "[t]he regulations established under paragraph (1) shall permit preregistration for any work that is in a class of works that the Register determines has had a history of infringement prior to authorized commercial distribution."[8]

MPAA believes that the preregistration system should cover, as an eligible class, both television productions and other audiovisual materials that are direct-to-video (DVD) productions. These productions have been vulnerable to and have a history of pre-release infringement.

There are numerous examples of television productions being pirated before their first broadcast. In fact, it is especially common for television pilots to be pirated and uploaded onto the Internet, in addition to individual episodes of established series.

As an example, Warner Brothers notes that as many as five of its upcoming Fall television shows, in the form of the pilot productions, have already been pirated on the Internet. These include pilots of upcoming television series entitled: "Supernatural," "Global Frequency," "Related," "Reunion," and "Invasion." All five of these pilot productions were for television series set for September 2005 release, and all were leaked on the Internet this summer. On June 30, 2004, "Joey" one of NBC Universal's main fall television pilot programs, was pirated on peer-to-peer Internet systems even though the show had its network broadcast on September 9, 2004. On July 7, 2004, "Hawaii" an hour long drama produced by NBC Studios, was pirated on peer-to-peer Internet systems even though the show had its network broadcast on September 1, 2004. Twentieth Century Fox reports that the following pilot episodes of new television series were pirated before their first broadcasts: "Family Guy," "Over There" (a cable television series), "Prison Break" (which premieres August 29), "Bones" (which premieres September 13), and "Kitchen Confidential" (which premieres September 19). Earlier this year, the Touchstone Television series "Desperate Housewives" was pirated when a version of an episode that was never broadcast was made available on the Internet. Also, television programs, including "Desperate Housewives" and "Lost," are routinely pirated on-line before they air on the West-coast (by uploading earlier broadcasts from the East-coast).

Direct to video productions have also been the subject of pre-release piracy. Examples include piracy weeks (or even months) in advance of home video release. For example, Disney reports that "Tarzan II" was available on the Internet almost two months before its June 2005 authorized release; "Lion King 1 ½" was available almost a month before its February 2004 release; and "Mickey's Twice Upon a Christmas" was also available almost a month before its November 2004 authorized release.

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[8] It is important to note that "class of works" for the purposes of preregistration eligibility is distinct from the class of works identified in the triennial § 1201 rulemaking and exempt from the anti-circumvention provisions of § 1201(a)(1). In short, the only similarity between the § 1201 "class of works" and the pre-registration "class of works" is that the preregistration procedures should be (as the 1201 exemptions are) limited to a narrow and focused subset of the category of works of authorship found in § 102(a).

There are two examples of direct to video titles that are currently being pirated but that have not yet been released: "Lilo & Stitch 2" (due to be released August 30, 2005) and "Disney's Little Einsteins: Our Big Huge Adventure" (due to be released August 23, 2005).

Other recent direct to video titles subject to piracy include: "Dracula III: Legacy," "The Prophecy: Uprising," "X-Men Legend of Wolverine" (a DVD collection of an animated TV series), and "Kim Possible: A Stitch in Time," "Kim Possible Movie: So the Drama" (both DVD collections of never before seen material of made-for-television movies).

Because direct-to-video productions are as vulnerable to piracy as theatrical releases, MPAA is recommending that these works be included in the class of works eligible for preregistration practices. As the Copyright Office notice provides, "proponents of a[n additional] class of works should be prepared to document more than 'a few instances' of pre-release infringement."[9] In sum, we believe the above examples satisfy that requirement; television productions and direct-to-video audiovisual productions should be eligible works for preregistration.

C. Theatrical Distribution Requirement ("Established" Distributors)

MPAA notes the Copyright Office's concern with potential fraudulent preregistrations and its proposed safeguard that a theatrical distribution agreement is in place with an "established" distributor to ensure that a particular motion picture is intended for commercial distribution.

First, MPAA does not believe that fraudulent preregistrations will be commonplace, since, to our knowledge, they are rare for regular registrations (which carry evidentiary weight not accorded to preregistrations). We question what additional incentives exist to encourage submission of fraudulent preregistrations, particularly given the inherent safeguards built in to the statutory preregistration framework. As such, we believe such concerns should not dictate overly restrictive limitations on the classes of works eligible for preregistration.

Second, the realities of the film industry dictate that numerous films be completed on a speculative basis with producers intending to find distribution upon completion of the film. So, the proposal requirement of a theatrical distribution contract to be in place with an "established" distributor is too limiting. Motion pictures, including independent films, should be eligible for preregistration under broader rules.

For example, it would be a mischaracterization to say that commercial distribution of many films completed on a speculative basis is remote, especially for all of those independent films shown at film festivals such as the Sundance Film Festival, which are seeking distribution. For some, distribution is unlikely, but for many others it is almost guaranteed, even though it is not settled at the time of completion of the film. These motion pictures are equally vulnerable to pre-release piracy and therefore should benefit from the preregistration practices.

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[9] NPR, at 42,288.

We recommend that the Copyright Office consider making eligible those films which do not yet have commercial distribution, but which are clearly "intended for" commercial distribution. As noted above, this would include the vast number of films made by those who intend to seek distribution upon completion, including those films shown at film festivals where many independently financed and produced pictures have gone on to great commercial success. There are many examples of films that did not have distribution deals upon completion, but which were hugely successful (such as, "Reservoir Dogs," "The Blair Witch Project," and "Clerks"). Another recent example is "Napoleon Dynamite" which was purchased for distribution by Fox Searchlight Pictures, Inc. after the Sundance Film Festival, but which was pirated early on from screeners (prints) used by the filmmakers to market the film to potential distributors such as Fox Searchlight.

Independent films, which are commonly released in a more limited fashion than major feature films due to their budgets, are often targets of pre-release piracy. The ART Act defines a work being prepared for commercial distribution as one for which, at the time of the unauthorized distribution "the copyright owner has a reasonable expectation of commercial distribution" and this definition should suffice for this purpose.[10]

In sum, MPAA is concerned with the Copyright Office's narrow focus for preregistration eligibility to films which are subject to distribution agreements with "established" theatrical distributors. The Copyright Office believes it can combat fraud by requiring agreements with such "established" distributors as indicia of a good faith effort to commercially distribute a motion picture. MPAA believes that this requirement will unfairly disadvantage new, unproven, yet legitimate distributors (and we believe it will not prove to be a good tool to discourage fraudulent preregistrations) and that the better approach is to provide broader rules.

MPAA proposes that preregistration be available to any copyright owner "with a reasonable expectation of commercial distribution."

Only if the Copyright Office could not accept this test, would we alternatively recommend, that the Office replace its required "established distributors" language with the following: "agreements providing for the distribution to at least 250 screens in the United States, whether by direct licenses or through sub-distributors," or some similar language. This latter proposal would broaden the set of commercial distributors to those who have the capacity for large-scale distribution of motion pictures. The regulations should also cover distributors related to established distribution companies – e.g. subsidiaries and sister companies owned by the same parent company, so as not to disqualify new but clearly legitimate distributors.

D. Limited to "Proven" Authors

Much like our concerns about "proven" distributors, we are concerned that limiting preregistration eligibility to films by "proven" authors would unfairly discriminate against new talent emerging in the film industry. Though the NPR refers to "authors or performers who have

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[10] Artists Rights and Theft Prevention Act of 2005, Pub. L. No. 109-9 § 103(a), 119 Stat. 218, 220 (codified at 17 U.S.C. § 506(a)(3)(A)(i) (2005)).

had some track record of success,"[11] it is not clear who among the many people and organizations involved in making a motion picture could qualify the film for preregistration. Would it be the actors, director, screenwriter, producer, or studio? Furthermore, it is not clear what a track record of success indicates. How would success be calculated? Would it include critical as well commercial success? Would it only be limited to blockbuster films, performers, and directors, who make up a very small percentage of the film industry as a whole?

Thus, MPAA believes that the correct approach would allow a preregistration where the rightholders of a motion picture have a good faith intent to commercially distribute the film, regardless of whether the film features "proven" talent or is made and/or distributed by a "proven" company. We believe our recommendations offered (above) in the discussion of "established" distributors would provide a solution to this matter as well.

2. Mechanics of Preregistration Filings

In large part, MPAA agrees with the NPR's recommendations on the content and mechanics of preregistration filings, and particularly appreciates the Copyright Office's efforts to streamline the preregistration process. We note below some additional items for consideration specific to points raised in the NPR.

A. Content of Preregistration Forms

According to the NPR, the Copyright Office anticipates that the new Form PRE would require the claimant to indicate the "[d]ate on which creation of the work commenced."[12] With respect to motion pictures, this date can often be very difficult to determine. For example, is the date of creation the date the writer or some other entity came up with the idea, the date the writer began drafting the first version of the screenplay, or the date the studio greenlights the project? In the alternative, MPAA proposes that a preregistration claimant indicate, if required at all, the "intended first day of principal photography." We believe that this information should be optional, but if required, the "intended first day" would be a much clearer date to determine than may be the case with other possible dates of creation. MPAA likewise believes that the "date of anticipated completion of the work" is equally hard to determine and should be optional, but if required (or sought), to be the date of "anticipated completion of principal photography."

Proposed Form PRE would also require a claimant to state the anticipated date of commercial distribution. This information is often business confidential. Second, this information, in many instances, will not be known at the time of the commencement of the work. MPAA believes this information should be optional and/or clarified to mean the general anticipated date of first theatrical or television release, if known (such as "Spring 2006"). Also, we suggest that this date should exclude promotional distributions and performances such as sneak previews, press screenings, word-of-mouth, and/or festival screenings.

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[11] NPR, at 42,289.
[12] NPR, at 42,291.

B. Filing Fees

The NPR asks for comments on whether, in the future, it would be advisable to have a system that required preregistration claimants to file the applicable fees for copyright registration at the time of preregistration. While noting that this requirement is technically unfeasible at the current time, the Copyright Office reasons that it would create an additional incentive for timely copyright registration. MPAA does not believe there is any substantial advantage or disadvantage to such a system, since our members have deposit accounts with the Copyright Office.

Furthermore, we do not believe that an additional payment of $30 at the time of preregistration would have any impact on the number of preregistrations which form the basis of subsequent full copyright registrations.

C. Public Availability of Online Records

MPAA is uncertain that the benefits of a publicly accessible database of preregistration titles, owners, and plot summaries, outweigh the clear harms of having that sensitive information subject to public scrutiny. The preregistration information will be useful primarily to the courts to determine jurisdiction, not as a public database. Apart from potential economic injury a studio may suffer if important elements of a motion picture (e.g., title, character names, plot points, etc.) are made publicly available on a Copyright Office website months in advance of commercial release, there are other significant risks. Most notably, a copyright owner who preregisters a film (and that information is made public on the Copyright Office's website) would be exposing herself to risks from cybersquatting by revealing key terms which could then be used to register domain names for the purposes of unfairly competing with the copyright owner, even before the motion picture has been finished!

For high profile productions featuring well-known actors or directors, this risk is significant, as is the potential harm. For this reason, MPAA recommends that either all or some of the preregistration information be encrypted and stored on Copyright Office servers as a non-public database, and that the private data only be made publicly available with the express consent of the copyright owner.

In response to the Copyright Office's questions about data processing and browser formats,[13] MPAA would suggest that application data be submitted via an XML format sent by email, in addition to being provided by logging on to a website to submit data via a browser. MPAA is aware that the Copyright Office is currently testing this approach for its regular registration system, via electronic filing, and we would recommend this same approach for the preregistration system.

D. Notification of Completed Filings; Issuance of Printed Certificates

According to the NPR, the Copyright Office does not anticipate issuing any printed certifications of preregistrations, but instead expects to send a confirmation email to claimants.

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[13] *See* Supplemental Notice of Proposed Rulemaking, 70 Fed. Reg. 44,878 (Aug. 4, 2005).

While MPAA appreciates the ease and timeliness of this proposed process, we are concerned that electronic confirmation alone may not be considered sufficient evidence of preregistration in a litigation context where a rightsholder is claiming a pre-release infringement. In short, some courts may require more substantial proof of the making of a preregistration for jurisdiction purposes and/or remedies (attorney's fees and statutory damages).

It is unclear whether U.S. customs officials will accept preregistrations to meet the requirements for recording titles of copyright works. MPAA certainly recommends that they do so. It would speed compliance with the recordation process and improve customs enforcement if customs officials accepted the Copyright Office's electronic acknowledgements (in lieu of a printed certificate). However, customs officials may require a printed Copyright Office certificate of a preregistration (if they accept preregistrations at all) in order to comply with the recordation requirements.

To avoid any problems with courts or other agencies seeking information about completed preregistrations, MPAA suggests that the Copyright Office should issue a certificate of preregistration (i.e., a certified print-out of the email confirmation) upon request, and for an appropriate additional fee.

E. Errors and Corrections of Filings

The NPR states that the Copyright Office will not accept filings to correct errors or omissions in preregistrations, as occurs with actual registrations using Form CA.[14] We are unsure why the Copyright Office would be hesitant to accept corrections, particularly as they would help perfect the record in case of a pre-release infringement suit. In some situations it would be highly beneficial to permit updated and corrected preregistrations particularly where copyright ownership has changed since the initial preregistration. We do not believe that there would be an additional cataloging burden on the Copyright Office to accept a Form PRE-CA, for example. This type of a form could, however, correct the record and make it easier for courts to identify the proper preregistration information.

In the case of motion pictures, it can be months, and sometimes years between the dates of principal photography and theatrical release. In the interim, a copyright registration may not be appropriate (because the film is not complete) but the earlier information provided on a preregistration would be stale. For this reason, MPAA believes preregistration corrections should be permitted. One possible way of reaching this desirable result would be to allow a Form PRE-CA, as a subsequent preregistration, to correct (and/or amplify) an earlier, initial preregistration. Thus, if significant information is missing or has changed, or there are errors on the initial preregistration, all a copyright owner would need to do is file a subsequent preregistration to correct, and in effect, supplant the earlier one. However, if corrections (or substitutions of newer preregistration applications) are accepted it should be clear that the effective date of preregistration is determined by the filing of the first preregistration application, not the corrected form.

[14] *See* NPR, at 42,290.

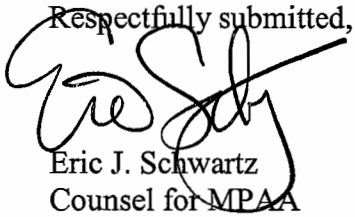
F. Timing (30 day) Rule

Finally, MPAA recommends a clear rule with respect to the timing of required copyright registrations after a preregistration has been made and after a claimant obtains knowledge of infringement. According to the new 17 U.S.C. § 408(f)(4)(B), a copyright owner who makes a preregistration must submit copyright registration materials (i.e., an application, deposit and fee) for the infringed work within one month of the date the copyright owner learned of the infringement.

For the purposes of § 408(f)(4), the rules should be clarified so that the thirty day time period is calculated based on Federal Rule of Civil Procedure Rule 6(a).[15] This would permit registrations to be made under the 30-day rule a few days later in the event the timing of the registration falls on a weekend or federal holiday.

In conclusion, MPAA appreciates the opportunity to provide comments and welcomes any questions you might have about our submission or the problems faced by motion picture and television producers. We look forward to working with the Copyright Office on this important matter.

Respectfully submitted,



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[15] Rule 6(a) of the Federal Rules of Civil Procedure states in full:

> Rule 6. Time
> (a) Computation.
> In computing any period of time prescribed or allowed by these rules, by the local rules of any district court, by order of court, or by any applicable statute, the day of the act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period so computed shall be included, unless it is a Saturday, a Sunday, or a legal holiday, or, when the act to be done is the filing of a paper in court, a day on which weather or other conditions have made the office of the clerk of the district court inaccessible, in which event the period runs until the end of the next day which is not one of the aforementioned days. When the period of time prescribed or allowed is less than 11 days, intermediate Saturdays, Sundays, and legal holidays shall be excluded in the computation. As used in this rule and in Rule 77(c), "legal holiday" includes New Year's Day, Birthday of Martin Luther King, Jr., Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans Day, Thanksgiving Day, Christmas Day, and any other day appointed as a holiday by the President or the Congress of the United States, or by the state in which the district court is held.