

Chapter 4

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Chapter 4. NOTICE

Part 4.1 WHEN REQUIRED

4.1.1 Unpublished works.

- I. Without notice. No notice is required on an unpublished work. Hence, for those classes of works which can be registered in unpublished form (all classes except A, B, F, H, and K), an unpublished work bearing no notice may be registered.
- II. With notice.
 - a. If an unpublished work bears a notice naming a claimant who is not the same person as the claimant in the application, the Office will write for an explanation. (See topic 4.2.3 II and III.)
 - b. If an unpublished work bears a notice which would be faulty if used on the work when published, the work may be registered but the Office will send a cautionary letter.

Examples:

- (1) A notice on an unpublished dramatic script lacking the name of the copyright proprietor.
- (2) A notice with the wrong year date on unpublished music.
- (3) A notice at end of a ten-page lecture.

4.1.2 Works published in U.S.

- I. General Rule. To be registrable, the deposit copies of a work published in the U.S. must bear an acceptable notice. (As to Publication, see Chapter 3.)
- II. Accidental omission.
 - a. If the Office is informed that the great bulk of the published copies of a work bore an appropriate notice, but that the notice was accidentally omitted from a very few of the published copies,

4.1.2 Works published in U.S. (cont'd)

II. Accidental omission. (cont'd)

a. (cont'd)

registration may be made. In such cases, if the deposit copies do not bear the notice, copies with the notice will be requested.

b. If a considerable number of copies have been published without notice, registration will be denied.

c. If the entire first edition of a work was published without notice, registration will be denied even if the first edition consisted of a relatively small number of copies.

4.1.3 Works published abroad. (See Part 8.2)

I. Works subject to ad interim registration. (See Part 8.4)

a. No notice is required for the copies of a work subject to ad interim registration which are published abroad, or which are deposited for registration, regardless of the citizenship or domicile of the author.

b. Where the copies deposited for ad interim registration lack any notice, registration will be made without a cautionary letter. Where they contain a defective notice or present a variance in claim, the practices described in topics 8.2.2, II.e.2 and 8.4.4. will be followed.

II. Works other than those subject to ad interim registration.

a. In general, works first published abroad after June 18, 1959 (other than those subject to ad interim registration) must bear a notice of copyright in the required form and position in order for registration to be made. However, the Copyright Office will apply a liberal standard in evaluating the acceptability of the notice on such works, and will generally accept the notice at face value. (See topic 8.2.1.III.)

4.1.3 Works published abroad. (cont'd)

II. Works other than those subject to ad interim registration. (cont'd)

- b. Works by foreign authors first published before June 18, 1959 will be considered for registration even if the notice is defective or lacking, but a cautionary letter will be sent in every such case.
- c. For practices with respect to the form and position of the notice on works first published abroad, see topic 8.2.2.

Part 4.2 FORM OF NOTICE

4.2.1 Elements required. (17 U.S.C. sec. 19; for U.C.C. requirements, see topic 8.2.2.II.a.)

I. Classes A, B, D, and E. The form of notice for works in these classes consists of (1) the word "Copyright," the abbreviation "Copr.," or the symbol ©, (2) the year in which copyright was secured, and (3) the name of the copyright proprietor.

II. Classes F to K.

a. For works in these classes, a notice in any of the following forms may be accepted:

- ✓ 1. The word "Copyright" or the abbreviation "Copr." or the symbol ©, accompanied by the name of the proprietor, with or without the year date; or
- ✓ 2. The word "Copyright" or the abbreviation "Copr." or the symbol ©, accompanied by the initials or other mark of the proprietor, provided that his name appears on some accessible portion of the copies or its margin, back, base, pedestal, or mounting.

III. Classes L and M. A notice without the year date will be accepted for either Class L or M, but the applicant will be cautioned that such a notice may not be adequate, especially for Class L.

IV. Contributions to periodicals. The notice on a contribution to a periodical must be in a form appropriate to the character of the contribution as a separate work. Thus, if the contribution is a literary or musical work, the notice must include the year date. If the contribution is a graphic work (Class F-K material), a notice lacking the year date is acceptable.

4.2.2. "Copyright" or "Copr." or © variants.

I. A misspelled or variant form of "Copyright" or "Copr." may be accepted if it is clear that copyright is meant. Examples of variants which may be accepted:

1. Copyrighted
2. Copywrite
3. Copywritten
4. Copyright Pending
5. Copyright Applied For
6. Copyright and Registered
7. Registered U.S. Copyright Office
8. Copy.
9. Copyr.
10. Cpr.
11. Corp. (if clearly not used to refer to a corporation.)

II. The equivalent of "Copyright" in a foreign language (e.g., the Spanish "derechos reservados") will not be accepted.

III. A variant of the symbol © will be acceptable only where it resembles the © closely enough to indicate clearly that the copyright symbol is meant.

Acceptable variants:

1. Ⓒ
2. Ⓒ
3. Ⓒ
4. ©
5. (c)

Unacceptable variants:

1. CO
2. C
3. C/O
4. Ⓒ
5. @

4.2.3 Name of claimant

I. Identity of claimant

a. In general

1. For all classes of works, the notice must include "the name of the copyright proprietor." (17 U.S.C. sec. 19.)
2. Ordinarily the Copyright Office will not question the name given in the notice, as long as it is substantially the same as the name given as claimant in the application and appears sufficient to identify the copyright proprietor.
 - (a) Abbreviations, last names alone, trade names, etc., will ordinarily be accepted if substantially the same form of name also appears as claimant in the application. (See Supplementary Practice No. 37).

Examples:

- (1) Colo. Mfg. and Merch. Co.
 - (2) Doloukanova
 - (3) Maxwell's
- (b) Where it is clear from the face of the copies that the person named in the notice is not the copyright proprietor, registration will be denied.

Examples:

- (1) "Copyright 1960 by Hill and Dale Songs, licensee of U.S. publishing rights"
 - (2) "Copyright 1960 by George Jean Kronenberger (for the unknown author or owner of copyright in this play)"
- (c) Where the name in the notice is so vague, abbreviated, or ambiguous that it could not be considered to identify the claimant, registration will be denied. (But see topic 4.2.3.II, below, concerning variant forms of claimant's name.)

4.2.3. Name of claimant (cont'd)I. Identity of claimant (cont'd)a. In general (cont'd)

2. (cont'd)

(c) (cont'd)

Examples:

- (1) "Copyright 1960 by All Right-Thing Citizens of Eastport, Maine"
- (2) "Copyright 1960 by C.L." (Where the claimant is apparently an individual and there is no indication that the initials represent a trade name)
- (3) "Copyright 1960 Birds and Beasts" (Where "Birds and Beasts" is the title of the particular textile design, and there is no indication that it is the accepted alternative designation of the claimant)
- (d) Where the 'name' in the notice is a trademark registered or otherwise, copyright registration will not be made unless the trademark also serves as a trade name or accepted alternative designation under which the public might identify the claimant. (See topic 4.2.3.II.d.6, below.)
- (e) If it is unclear whether the 'name' in the notice and application is sufficient, inquiry should be made, and a new application explaining the nature of the identification may be requested.

Examples:

- (1) HB Co., accepted alternative designation of Humbert Bakery Co., Inc
- (2) Fandango, trade name of the Statu Seekers Jewelry Co.
- (f) For practices with respect to variances in claim, see topic 4.2.3. II-III, below.

4.2.3 Name of claimant (cont'd)

I. Identity of claimant (cont'd)

b. Identity by reference. A notice reading "Copyright 1960 by the author" or "by the publisher" may be accepted if the author or publisher is named and identified as such in some position where it will be readily seen. The claim will ordinarily be rejected where more than one author is named on the work, or where for other reasons the identity of the copyright owner is ambiguous or unclear.

c. Deceased person.

1. If the person named in the notice died after the work was published, registration should be made in his name.

2. When the Office has knowledge that the person named in the notice died within three months before the work was published:

(a) An application in the name of the estate of the deceased, or in the name of the executor or administrator of his estate as such, may be accepted. Thus, any of the following would be acceptable:

Examples:

(1) The Estate of A

(2) The Estate of A, by B, Executor
(or Administrator)

(3) B, Executor (or Administrator)
of the Estate of A

(b) An application in the name of the deceased, or in the name of the publisher, will be rejected. In such cases the possibility of registration in the name of the estate, or of the executor or administrator as such, will be suggested.

(c) When an application is received in the name of a person claiming as the widow or heir of the deceased, the Office will suggest that a new application be submitted in the name of the appropriate legal representative, pointing out, however, that if no administration of the estate has been or will be had, the application may be filed in the name of the

4.2.3 Name of Claimant. (cont'd)I. Identity of claimant. (cont'd)c. Deceased person. (cont'd)

3. Any case in which the person named in the notice died more than three months before the date of publication will be considered individually on its special facts. Registration (in the name of the estate or of the executor or administrator) may be made in some instances where the use of the deceased's name in a work published more than three months after his death is explained by special circumstances; for example: where the work was sent to the printer before the death occurred and a subsequent change in the notice would not have been feasible, or where the publisher was not informed of the death until after or very shortly before the date of publication.

- d. Estate, executor, or administrator. A notice in the name of the estate of a deceased person, or in the name of the executor or administrator of an estate as such, may be accepted for registration in the same name (e.g., "Estate of John Doe," or "James Smith, Executor of Estate of John Doe"). If the application gives only the name of the executor or administrator without designating him as such (merely "James Smith" the application will be annotated to show the full form given in the notice.
- e. Wrong claimant. Where the Office is advised that the wrong person is named in the notice (e.g., the printer's name inserted by mistake), an application in the name given in the notice may be accepted with a cautionary letter, if there is some indication that use of the name in the notice was a good faith error, or if tacit authorization may be implied. An application in the name of the rightful claimant not given in the notice will not be accepted. For practices with respect to works first published abroad, see topic 8.2.2.II.
- f. Trustee. Where the notice is in the name of a trustee (e.g., "John Doe, Trustee," or "John Doe, Trustee for James Smith," or "John Doe for the benefit of James Smith"):

4.2.3 Name of claimant. (cont'd)

I. Identity of claimant. (cont'd)

f. Trustee. (cont'd)

1. An application in the name of the trustee as such ("John Doe, Trustee") or in the same form as given in the notice (e.g., "John Doe for the benefit of James Smith") may be registered.
2. An application giving only the name of the trustee without designating him as trustee (merely "John Doe") may be registered, but the Office will annotate to show the full form given in the notice.
3. An application in the name of the beneficiary alone ("James Smith") will not be registered.

g. Assignee.

1. Where the notice names one person and the application names another person who is identified (either in the application or in correspondence) as his assignee, the Office will request a new application in the name given in the notice, with the suggestion that the assignment be recorded.
2. Where the notice names an assignee alone (e.g., "Copyright 1960 assigned to Doaks Publishing Co."), an effort will be made to determine, through searching and/or correspondence, whether an earlier edition has been published or registered, and whether the present edition contains new matter. (Note: This situation can be altered by the year date used in the notice; see topic 4.2.4).
 - (a) If this is the first publication of the work, and there has been no previous unpublished registration, registration will be in the name in the notice.
 - (b) If this is not the first published edition of the work, and the earlier edition contained a notice in another person's name:

4.2.3 Name of claimant. (cont'd)I. Identity of claimant. (cont'd)g. Assignee. (cont'd)

2. (cont'd)

(b) (cont'd)

(1) If there is new matter, registration will be made in the name in the notice and the desirability of recording the assignment will be suggested.

(2) If there is no new matter, the claim will be rejected because the work is a reprint, with a warning as to the effect of substituting an assignee's name in the notice before recordation.

(c) If this is the first publication of the work but an unpublished version has been registered in another name, registration will be made in the name in the notice, whether or not there is new matter. The applicant will be notified of the desirability of recording his assignment and (unless there is new matter) warned about the substitution of his name in the notice before recordation. The same practice is followed with respect to the American edition of a work registered ad interim.

3. Where the notice names both an assignor and an assignee (e.g., "Copyright 1960 by John Doe, assigned to Doaks Publishing Co.,"), an effort will be made to determine, through searching and/or correspondence, whether an earlier edition has been published or registered, and whether the present edition contains new matter. (Note: The situation can be altered by the year date used in the notice; see topic 4.2.4.)

(a) If this is the first publication of the work and there has been no previous unpublished registration, registration will be made in the name of the assignee, provided he was the owner on the date of first publication.

(b) If this is not the first published edition of the work, and the earlier edition contains a notice in the assignor's name:

4.2.3 Name of claimant. (cont'd)

I. Identity of claimant. (cont'd)

g. Assignee. (cont'd)

3. (cont'd)

(b) (cont'd)

- (1) If there is new matter, registration will be made in the name of the assignee, assuming he was the owner on the date of first publication. The desirability of recording the assignment will be suggested.
 - (2) If there is no new matter, the claim will be rejected because the work is a reprint. The desirability of recording the assignment will be suggested.
- (c) If this is the first publication of the work but an unpublished version has been registered in the name of the assignor:
- (1) If there is new matter, or if the assignment has been recorded, registration should be made in the name of the assignee, provided he was the owner on the date of first publication.
 - (2) If there is no new matter, and if the assignment is not recorded, registration will be made in the name of the assignor, and registration in the name of the assignee will be refused.
- (d) An application in both names will be rejected, even if it follows the form of the notice.
- (e) In any case, the application will be annotated to reflect the form of the notice.

h. Licensee.

1. A notice naming a licensee alone (e.g., "Copyright 1960, Tinpan Music Co., U.S. Licensee") will not be accepted.

4.2.3 Name of claimant. (cont'd)I. Identity of claimant. (cont'd)h. Licensee.

1. (cont'd)

(a) If it is not apparent that the name is that of a licensee, it will be assumed that the party named is the proprietor.

2. Where a notice names both the copyright owner and a licensee (e.g., "Copyright 1960 by Herman Schmitt. Tinpan Music Co., U.S. Licensee"), registration may be made in the name of the copyright owner (Herman Schmitt) but not in the name of the licensee.

II. Variant form of claimant's name.a. Minor variations.

1. Where there are relatively minor variations between the form of the claimant's name or corporate title in the application and in the notice, registration will be made without correspondence.
2. Where the variance is quite minor, or where it involves mere descriptive matter, no annotation is made.

Examples:

- (1) In notice: J. P. Higgins
In application: John Paul Higgins
- (2) In notice: Swamplands Realty Co., Inc
a Delaware Corporation
In application: Swamplands Realty Co.
Inc.
- (3) In notice: Rosetta Stone, Music Publisher
In application: Rosetta Stone

4.2.3 Name of claimant (cont'd)

II. Variant form of claimant's name (cont'd)

a. Minor variations (cont'd)

3. Where it is a question whether the application should be annotated or not, the rule to follow generally is to annotate when the fuller form of the name appears in the notice.
4. Annotations should generally be made where the differences between the forms of the name might otherwise cause difficulty in identifying the claimant or the registration, but are not sufficient to require correspondence.

Examples:

- (1) In notice: Mrs. Tommy Deauville
In application: Arlene Deauville
 - (2) In notice: Fairchild Publishing Corp.
In application: Fairchild Pub. Co. Inc.
 - (3) In notice: Educational Council of the
Affiliated American Snooker
Players
In application: Council on Education of
the Snooker Players of
America
 - (4) In notice: Anthony C. Payola Music
Publishing Company
In application: Payola Music
 - (5) In notice: H. B. Leary, Jr., and
Bro., Inc.
In application: H. B. Leary, Inc.
- b. "Inc." and "Corp." Where the variance involves omission of the designation "Inc." or "Corp.," the question of whether to write or annotate is determined by the circumstances.
1. In notice: Fairchild Publishing Co., Inc.
In application: Fairchild Publishing Co.

4.2.3 Name of claimant (cont'd)

II. Variant form of claimant's name (cont'd)

b. "Inc." and "Corp." (cont'd)

1. (cont'd)

Practice: Where the applicant is a regular remitter and the error seems likely to recur (e.g., in periodicals, serial jewelry, etc.), the Office writes for a new application. Otherwise, registration is made with an annotation.

2. In notice: Fairchild Publishing Co.
In application: Fairchild Publishing Co., Inc.

Practice: If it seems clear that the names refer to the same legal entity, the claim is registered with an annotation and if the variance seems likely to recur, a cautionary letter is sent. If the identity between the names is open to question (e.g., if there is a possibility that the company has been incorporated between the time of publication and registration), the application is questioned.

Corporate subsidiary or department. Where the variance is between the name of a corporation and the name of a subsidiary or department of the corporation, registration may be made with an annotation if the relation between the two names is nationally known, or if it is clear from information on the copies. Otherwise, the variance will be questioned.

Examples:

- (1) In notice: Chevrolet Division
In application: General Motors Corporation
Practice: Annotate

4.2.3 Name of claimant (cont'd)

II. Variant form of claimant's name (cont'd)

c. Corporate subsidiary or department (cont'd)

Examples; (cont'd)

(2) In notice: Wacky Record Corp., a
subsidiary of Black
and Blue Music, Inc.

In application: Black and Blue
Music, Inc.

Practice: Annotate

(3) In notice: Titanic Film Corp.

In application: Gigantic Pictures,
Inc.

Practice: Question the variance

d. Abbreviations, initials, trade names, and other variants

1. An application stating only the full name of the copyright claimant will be questioned or rejected when the notice contains only the claimant's initials, a sharply abbreviated form of his name, or a different designation which might be considered his trade name.
2. Registration will be refused when it is apparent on the face of the application, or it develops from correspondence, or otherwise that the designation in the notice is not the claimant's trade name and is not capable of identifying him to the public.
 - (a) Under ordinary circumstances an application in the name of an individual will be rejected outright when only the individual's initials appear in the notice.
 - (b) In determining whether the designation in the notice can be considered the claimant's "name," the most important factor is whether the designation is capable of identifying the claimant to the public generally, as distinguished from the trade itself or from the specialized public in the trade. However, where it does not fly in the face of common sense, the applicant's

4.2.3 Name of claimant (cont'd)

II. Variant form of claimant's name (cont'd)

d. Abbreviations, initials, etc. (cont'd)

2. (cont'd)

(b) (cont'd)

assertion as to use of the designation as a trade name will generally be accepted without further question. (See topic 4.2.3.II.d.5, below)

(c) Examples where registration is refused:

- (1) In notice: O.L.
In application: Oliver Lemming
- (2) In notice: C
In application: Caledonian Boar Hunts, Inc.
- (3) In notice: Or. Pst. Frd. Cb.
In application: Oregon Postalworkers Friendship Club
- (4) In notice: "© 1959 Circles and Squares"
In application: (covering a fabric design entitled "Circles and Squares"): "Hawthorne Weaver Fabrics, Inc."

3. When the designation in the notice appears to be a trade name, an accepted alternative designation or similar variant under which the public may be able to identify the claimant, a new application will be requested, reflecting the designation in the notice, the full name, and the relationship between them.

- (a) Whenever possible, the applicant should be encouraged to state the claimant in line 1 of the application in the following order:
- (1) variant designation exactly as it appears in the notice,
 - (2) relationship between the variant and the full name,
 - (3) the full name.
- This will not always be possible in cases where the relationship is expressed as "doing business as", "trading as", etc.

4.2.3 Name of claimant (cont'd)

II. Variant form of claimant's name (cont'd)

d. Abbreviations, initials, etc. (cont'd)

3. (cont'd)

(a) (cont'd)

Example: "A.A.S., Inc., accepted alternative designation of Affiliated Abominable Snowmen, Incorporated," rather than "Affiliated Abominable Snowmen, Incorporated, whose accepted alternative designation is A.A.S., Inc."

(b) The phraseology expressing the relationship between the variant designation in the notice and the full name of the claimant will vary depending upon the nature of the claimant and other circumstances. However, whenever appropriate, the applicant should be encouraged to use uniform phraseology in the pending case and in future cases of the same sort. The following represent the preferred phrases in the most common situations, although variations expressing the same thought may be accepted.

(1) Where the claimant is not a corporation, the following are examples of acceptable phrases:

- (i) Thomas Jones, doing business as Fielding Record Co.
- (ii) Emma Hart, sole owner of Nelson's Chile Parlor
- (iii) Ella Wheeler Parkington, pseudonym of Calvin T. Smith
- (iv) Harry Lillis Crosby, also known as Bing Crosby
- (v) Richard Ackroyd, trading as Rump-sprung Mattress Co.

4.2.3 Name of claimant (cont'd)II. Variant form of claimant's name (cont'd)d. Abbreviations, initials, etc. (cont'd)

3. (cont'd)

(b) (cont'd)

(1) (cont'd)

(vi) S & D Co., accepted alternative designation of Sturm and Drang Company

(vii) Andante, trade name of Millville Jewelry Co., a partnership

(2) Where the claimant is a corporation, the following are examples of acceptable phrases:

(i) Florenza, accepted alternative designation of Dan Kasoff, Inc.

(ii) KT, trade name of Kaytee Imports, Inc.

(iii) Trifari, accepted alternative designation of Trifari, Krussman & Fishel, Inc.

(iv) Glunch, registered firm name of Glumpy Optical Co., Inc.

4. In cases where use of the abbreviation or variant in the notice has not been discussed or established in previous correspondence, and where questions might be raised as to the validity of the notice, a cautionary letter should be sent. Future use of the variant should be discouraged except where the article is so small that no other alternative exists (e.g., jewelry), or where the variant is so well-known nationally that it is fully effective in identifying the claimant to the public (e.g., "GE", "GM", "AAA.")

5. The basis for acceptance of abbreviation, initial, and other variants is that they are capable of identifying the copyright claimant to the public as a trade name, nickname, pseudonym, or other acceptable alternative designation. Ordinarily the Office will not question an applicant's assertion to this effect.

4.2.3 Name of claimant (cont'd)

II. Variant form of claimant's name (cont'd)

d. Abbreviations, initials, etc. (cont'd)

5. (cont'd)

and will not require him to submit proof of his statement. However, if the statement appears to be clearly inconsistent or incorrect on its face, the application may be questioned or rejected.

Examples:

- (1) Dwight D. Eisenhower, pseudonym of John Brown
 - (2) X, accepted alternative designation of Louella Chalfont
 - (3) Oscar Claffey, doing business as the American Red Cross
6. A trade name identifies a business and a trademark identifies the goods produced by that business. Thus, when a trademark serves only to identify goods or products, it cannot be accepted as the "name" of the proprietor in the copyright notice. However, when a trademark also serves as a trade name in identifying the copyright proprietor to the public, registration may be considered. (See topic 4.2.3.I.a.2.(d), above.)
- (a) Where the notice contains a designation which is identified only as a trademark (registered or not) inquiry will be made as to whether the mark also serves as the trade name or accepted alternative designation of the claimant himself. If so, a new application stating this fact will be requested. If not, registration will be refused.

Examples:

- (1) In notice: Skip-Itch
In application: Skip-Itch, registered trademark of Samuel L. Beitchman, d.b.a. Sylbe Drug Co.

4.2.3 Name of claimant (cont'd)

II. Variant form of claimant's name (cont'd)

d. Abbreviations, initials, etc. (cont'd)

6. (cont'd)

(a) (cont'd)

Examples: (cont'd)

(1) (cont'd)

Practice: Reject unless new application received stating that "Skip-Itch" is trade name or accepted alternative designation of claimant.

(2) In notice: Trifari

In application: Trifari, accepted alternative designation and registered trademark of Trifari, Krussman & Fishel, Inc

Practice: Accept, but if possible discourage reference to trademark in line 1.

(b) The fact that a trademark or trade name is registered in the Patent Office or elsewhere has no bearing on copyright registration in any way or the other.

(c) To be considered a trade name or accepted alternative designation, a trademark must contain recognizable letters or words. A purely pictorial or graphic mark cannot be considered a "name" for this purpose.

7. Where the difference between the designation in notice and the claimant's name is more than a mere variation (see topic 4.2.3.II.a, above), the Office will write for a new application reflecting the relationship between the two names, rather than resolving the variance itself by annotation.

4.2.3 Name of claimant (cont'd)

II. Variant form of claimant's name (cont'd)

d. Abbreviations, initials, etc. (cont'd)

7. (cont'd)

Examples:

(1) In notice: B & W Labs
In application: B & W Labs, accepted
alternative designation
of Bang and Whimper
Atomic Laboratories,
Inc.

(2) In notice: Verdi's Pizza Palace
In application: Joe Green, d.b.a.
Verdi's Pizza Palace

8. Where there is any question as to precisely what name is considered a part of the notice (e.g., in dispersed notice cases, or where other names follow the notice), the application will be annotated to show what is regarded the name in the notice.

III. Different claimants in notice and application.

a. In general. Where the application and notice appear to name different persons, the Office will write for an explanation. (The explanation may show, for example, that the name in the notice is the pseudonym

4.2.3 Name of claimant. (Cont'd)III. Different claimants in notice and application. (Cont'd)a. In general. (Cont'd)

or trade name of the applicants: see the preceding topics 4.2.3, I and II). If they are actually different persons whose claims would conflict, the application will be rejected. (See topic 4.2.3.I.e.)

b. Additional names.

1. Where the notice names two claimants and only one of them is given in the application, a new application giving both names will be suggested. But if registration in the one name only is desired, the Office will so register with an annotation.
2. Where the application gives two claimants and only one of them is named in the notice, a new application in the name in the notice will be requested, with the suggestion that, if a transfer of part-ownership of the copyright is involved, the assignment be recorded.

4.2.4 Year date.

- I. When required. The year date must be included in the notice in any "printed literary, musical, or dramatic work." (17 U.S.C. § 19). It is required on works in Classes A, B, D, and E published in the United States. It is not required, so far as Title 17 is concerned, for Classes F-K. The Office will recommend use of the year date on motion pictures, Classes L and M; however, motion pictures without the year date may be accepted but a cautionary letter will be sent.

Note: In order to claim the exemptions of §9(c), pursuant to the U.C.C., the year date is required in the notice (which should also contain the symbol © for all classes.

4.2.4 Year Date. (cont'd)

II. Form of year date. The Office will accept a year date in any of the following forms:

- (1) Arabic numerals, e.g., 1960
- (2) Roman numerals, e.g., MCMLX
- (3) Abbreviation of Arabic numerals, e.g., '60
- (4) Spelled out in words instead of numerals, e.g., Nineteen Sixty

III. Appropriate year date.

- a. Copyright by publication. Where copyright was secured by publication, the year date should be the year in which the work was first published as stated in the application.
- b. Prior registration as unpublished. Where copyright was secured by registration of the work in unpublished form, copies later published without change in substance should bear the year date of such original registration. If there is new matter in the published work, the notice may include either the year date of first publication alone or, preferably, both the dates of registration and of publication.
- c. Edition containing new matter. Where a new edition of a work previously copyrighted as a published work contains new matter, the year date in the new edition may be the year of its own publication. Or both the year date of the original copyright and the year date of publication of the new edition may be given.
- d. American edition. Where a work was first published abroad, the later American edition should bear the year date of such first publication. An American edition bearing only the later year date of its own publication will be rejected unless it contains new matter.

4.2.4 Year date. (Cont'd)IV. Variance between notice and application.

- a. Date in notice later than date of publication. Where the date in the notice is later than the date of publication (that is, apparently a postdated notice):
 1. General rule: Where there is nothing in the copies application or correspondence to indicate that the work, or a substantial part of it has been previously published or registered in unpublished form, the claim should be rejected without searching or preliminary correspondence.
 2. Exception: Where no previous publication or registration is indicated, but the date of publication given in the application falls within the year immediately preceding the year in the notice, the claim should be entered without searching. A warning letter should be sent, and the application (not the certificate) should be annotated to show the date in the notice.
 3. Previous publication or registration indicated. Where something on the application, in the notice, on the copy, or elsewhere in the correspondence file indicates that the work, or a substantial part of it, has been previously published or registered in unpublished form, the Office should search or correspond to determine the date of the earlier publication or unpublished registration, and whether or not the present copies contain new copyrightable matter.
 - (a) If an earlier publication for the work (other than foreign publication for an English-language book registered ad interim) is found, and there is no reason to suppose that the present copies contain new copyrightable matter, the claim should be rejected as a reprint and the problem presented by postdating the notice should be pointed out.
 - (b) If unpublished registration (or foreign publication for an English-language book registered ad interim) took place before the year immediately preceding the year in the notice, the claim should be rejected for postdated notice unless:

4.2.4 Year date. (Cont'd)

IV. Variance between notice and application. (Cont'd)

a. Date in notice, etc. (cont'd)

3. Previous publication, etc. (cont'd)

(b) (Cont'd)

- (1) the present copies contain copyrightable new matter and the date of publication falls within the year immediately preceding the year in the notice; or
- (2) the present copies contain new copyrightable matter and the year date of publication given on the application is wrong.

(c) If unpublished registration (or foreign publication for an English-language book registered ad interim) took place within the year immediately preceding the year in the notice — and if there is no reason to suppose that the present copies contain new copyrightable matter and the year date of publication given on the application is wrong — the claim should be entered as a doubtful case. (See topic 4.2.4.IV.a.2, above.) In such cases the application (not the certificate) should be annotated to reflect both the year in the notice and the date of the earlier registration; for example:

- (1) "Year date in notice: 1958
Registered Eu 123456, Oct. 27, 1957" or
- (2) "Year date in notice: 1958
Ad interim registration AIO 9876, following publication May 2, 1957."

(d) If search or correspondence indicates that the present version contains new copyrightable matter justifying use of the later date in the notice, and that the earlier date of publication given in the application was incorrect, a new application should be requested.

4.2.4 Year date. (Cont'd)IV. Variance between notice and application (Cont'd)

- b. Date in notice earlier than date of publication.
Where the date in the notice is earlier than the date of publication (that is, apparently an antedated notice)
1. General rule: Where there is nothing in the application, copies, or correspondence to indicate that the work, or a substantial part of it, has been previously published or registered in unpublished form, the claim should be entered without searching or preliminary correspondence. Both the application and the certificate should be annotated to reflect the date in the notice, and a warning letter should be sent.
 2. Previous publication or registration indicated.
Where something on the application, in the notice, on the copies, or elsewhere in the correspondence file indicates that the work, or a substantial part of it, has been previously published or registered in unpublished form, the Office should search or correspond to determine the date of the earlier publication or unpublished registration, and whether or not the present copies contain new copyrightable matter. (No search or correspondence is necessary if these facts are shown on the face of the application.)
 - (a) If an earlier publication for the work (other than foreign publication for an English-language book registered ad interim is found, and there is no reason to suppose that the present copies contain new copyrightable matter, the claim should be rejected as a reprint.
 - (b) If unpublished registration (or foreign publication for an English-language book registered ad interim) took place in the year shown in the notice, and if there is no reason to suppose that the present copies contain new copyrightable matter, the claim should be entered without correspondence and without any annotation referring to the date in the notice. However, if the fact of earlier registration does not already appear on the application, an annotation referring to the earlier entry should be added; for example: "Reg'd Eu-123456, July 6, 1957."

4.2.4 Year date. (cont'd)

IV. Variance between notice and application. (cont'd)

b. Date in notice, etc. (cont'd)

2. Previous publications, etc. (cont'd)

- (c) If unpublished registration (or foreign publication for an English-language book registered ad interim) took place before the year immediately preceding the year in the notice, and if there is no reason to suppose that the present copies contain new copyrightable matter, the claim should be rejected for postdated notice. (See topic 4.2.4.IV.a.3.(b)).
- (d) If unpublished registration (or foreign publication for an English-language book registered ad interim) took place within the year immediately preceding the year in the notice, and if there is no reason to suppose that the present copies contain new copyrightable matter, the claim should be entered as a doubtful case. (See topic 4.2.4.IV.a.3.(c)).
- (e) If an earlier publication or registration is found, but the present copies contain sufficient new copyrightable matter to support a new copyright, a statement of the new matter should appear on the application. Both application and certificate should be annotated to reflect the date in the notice, and a warning letter should be sent.

c. Where no year date is required. Where a year date is not required, as for Classes F-K, but a variance exists between the date in the notice and that in the application, the practices outlined in items 4.2.4.IV.a and b should be followed.

d. Two dates in notice. Where there are two or more dates in the notice and the last ones, if used alone, would not be acceptable because new matter is lacking, the Office will register despite the last date, sending a cautionary letter and annotating the application (not the certificate).

4.2.5 Dispersed notice.

I. Standard form of notice.

- a. The three elements of the notice ("Copyright" or "Copr.," or the symbol ©, the name of the claimant,

4.2.5 Dispersed notice. (Cont'd)I. Standard form of notice (Cont'd.)a. Standard form of notice (cont'd)

and the year date). should be given together as a single continuous statement.

- b. In the abbreviated form of notice for Classes F-K, the symbol © (or "Copyright" or "Copr.") and the initials or other mark of the claimant (or his name) should be given together. If the symbol © (or "Copyright" or "Copr.") is accompanied by the initials or other mark of the claimant, the name shall appear on some other accessible part of the work.

II. Where elements are separated.

- a. General rule. Where the elements of the notice are all present but are separated, the notice will be accepted as long as it is reasonably clear that the name is that of the claimant and the date is the year date of copyright. When a dispersed notice is accepted, a cautionary letter will be sent.

b. Separated name.

1. Where the separated name is the only name appearing on the same page as the rest of the notice, it may be accepted as part of the notice.
2. Where two separated names appear on the same page and either might be the logical claimant (e.g., the author and the publisher):
 - (a) If one such name is near the rest of the notice and the other is much farther removed, registration may be made in the first name, but not in the second name.
 - (b) If both names are equally identifiable with the rest of the notice, registration will not be made in either name.
3. Where one of two equally separated names is the logical claimant (e.g., the author), and the other is identified as someone not likely

4.2.5 Dispersed notice. (cont'd)

II. Where elements are separated. (ccnt'd)

b. Separated name. (cont'd)

3. (cont'd)

be the claimant (e.g., "Printed by the Wayward Press"), registration may be made in the first name, but not in the second name.

c. Separated year date.

1. Where a separated year date is the only one appearing on the same page and is the appropriate date, it may be accepted as part of the notice.

Example:

The year date in the Library of Congress
Catalog Card numbers can be tied in as the
year date for the notice

2. In the case of periodicals, where the year date does not accompany the rest of the notice, the periodical issue date appearing on the same page may be considered part of the notice.
3. In the case of contributions to periodicals, where the year date does not accompany the rest of the notice, the periodical issue date ordinarily will not be considered part of the notice, whether it appears on the same page or not.

d. Other matter intervening.

1. The presence of other matter between the elements of the copyright notice will not preclude acceptance of the notice as long as the elements are identifiable together. For example, the Office will accept a notice such as:

Closet Caddy
Trade Mark Reg. U. S. Pat. Off.
Copyright 1948. Pat. Pending.

2. The separation of the elements of the notice by a line drawn between them will not preclude acceptance of the notice. For example, the Office will accept a notice such as:

Copyright 1953
Standard Pulpwood Co.

Part 4.3. POSITION OF NOTICE

4.3.1 In books.

I. Statute. In "a book or other printed publication," the notice is to be placed "upon its title page or the page immediately following." (17 U.S.C. §20)

II. Title page.

- a. The title page is generally one on which the title is given special prominence as a principal feature of that page, usually preceding the body of the work. A book may have more than one such page. A notice on any page that can reasonably be considered a title page may be accepted.

Examples:

- (1) Preceding the text, a book has one page giving the title, author, and publisher, and another page giving the title alone: a notice on either of these pages would be acceptable
 - (2) The title is given with special prominence at the head of the first page of text: a notice on that page may be accepted.
- b. The mere fact that the title appears on several or all of the pages of a book does not make every such page a title page.

Thus, for example, although every page of a 50-page book bore the title, a notice on page 20 would not be acceptable.

- c. The cover of a book may be its title page.
- d. The dust jacket on a book cannot be its title page. A notice on the dust jacket would not be acceptable for registration of the book (but the dust jacket itself may be registrable as a separate work).
- e. If an unlimited notice appears on the title page of the book itself but the book as such contains no new

4.3.1 In books. (Cont'd)

II Title page (Cont'd)

e. (Cont'd)

matter whatsoever, the fact that the dust jacket contains copyrightable material would not justify registration for the book as a whole.

- III. Page following the title page. The "page immediately following" the title page is the reverse side of the title page. A notice on the reverse of the title page is acceptable for a book.
- IV. Page opposite the title page or its reverse. A notice which is visible when the book is open at the title page or at the reverse of the title page may be accepted. Hence, a notice on the page opposite the title page or opposite the reverse of the title page is acceptable. In such cases a cautionary letter will be sent.
- V. Individual work in compilation. For separate registration of an individual article or story in a compilation, the notice should appear on the title page of the article or story. However, a notice referring to the individual work and appearing on the title page for the compilation as a whole may be accepted with a cautionary letter.
- VI. Work of several volumes published at the same time. Where a work consists of two or more volumes published at the same time, the Office will recommend that the notice be placed in each volume. A notice appearing in the first volume only may be accepted under the rule of doubt with a cautionary letter.

4.3.2 In periodicals.

- I. Statute. In a periodical, the notice should appear "either upon the title page or upon the first page of text of each separate number, or under the title heading." (17 U.S.C. §20)
- II. Title page.
- a. A notice on any page of a periodical that may reasonably be considered a title page may be accepted. The page should contain the title

4.3.2 In periodicals. (cont'd)

II. Title page. (cont'd)

a. (cont'd)

displayed prominently and the number or date of the particular issue. The rules stated in topic 4.3.1, II as to what may be a title page in a book apply generally to periodicals.

- b. A page in a periodical preceded by a number of pages containing advertisements, publishing information, table of contents, etc., may be its title page.
- c. A page in a periodical containing other matter (such as text, pictures, or advertisements), as well as the title, may be its title page. In such cases, the notice should be so placed as to be identified with the title rather than with other matter on the same page.

III. First page of text.

- a. A notice on the first page of a periodical is acceptable, whether the material on that page is text, musical, or pictorial matter.
- b. Any of several pages might be considered the "first page of text" of a periodical, e.g., the cover, the page giving the table of contents, or the first page of the main body (but not a page devoted exclusively to advertisements of articles other than the periodical itself). A notice on any page that can reasonably be considered its first page may be accepted.

IV. Under title heading.

- a. A notice included in the masthead of a periodical may be accepted.
- b. The title of a periodical appearing prominently on any page where it would be reasonable to look for the notice may be considered a title heading.

4.3.2 In periodicals. (Cont'd)IV. Under title heading. (Cont'd)

- c. A notice may be accepted, though not placed "under" the title heading, if it appears near the title heading (whether below or above) so as to be seen and identified with the title.

4.3.3 In contributions to periodicals.

- I. A notice appearing anywhere on a single-page contribution may be accepted.
- II. For a multi-page contribution, the Office will recommend that the notice be placed on the first page. If a contribution consists of not more than a few pages, a notice on any page other than the first may be accepted with a cautionary letter. If a contribution consists of many pages, a notice at the end may be accepted with a cautionary letter.

4.3.4 In dramatic works. A published dramatic work is a "printed publication" in which the notice should appear in a position appropriate for a book. (See topic 4.3.1.)4.3.5 In music.

- I. Statute. In "a musical work" the notice should appear "either upon its title page or the first page of music." (17 U.S.C. § 20)
- II. Title page. A published book of music with notice on the title page may be registered in either Class E or Class A. If Form A is submitted, Form E will be suggested instead. (As to what is the title page, see topic 4.3.1, II.)
- III. First page of music. A notice on the first page of music is acceptable for registration in Class E. If an application on Form A is submitted, an application on Form E will be requested.
- IV. Page opposite the title page or the first page of music and reverse of title page. Where a published book of music has the notice on the reverse of the title page, an application on Form A may be accepted. Form A may also be accepted with a cautionary letter where the notice appears on a page opposite the title page or the reverse thereof. Form E may also be accepted in these cases and where the notice appears opposite the first page of music; a cautionary letter should be sent.

4.3.6 In classes F-K.

- I. Single-page work. On a single-page work in Classes F-K, a notice on any accessible portion of the work is acceptable. Thus a notice on either the front or back of the work may be accepted. A single sheet, though folded one or more times (e.g., a folded greeting card), constitute a single-page work.
- II. Margin or mounting. On individual works in Classes F-K, a visible notice on the margin or permanent mounting (such as a base, pedestal, selvage, or frame) is acceptable.
- III. Accessibility. See topics 4.4.2, III and 4.4.3.
- IV. Multi-page works. On a multi-page work of Classes F-K material in book form (e.e., an atlas or a book of prints):
 - a. The Office will recommend the full form of notice in book position (see topic 4.3.1).
 - b. Where the notice is not in book position but does appear at the front or back of the book where it is readily seen, an application on the appropriate Form F-K may be accepted with a cautionary letter. If Form A is submitted, the Office will reject it but mention the possibility (with a note of caution) of registration on the appropriate Form F-K. FL60C
 - c. A notice which is not readily seen (e.g., on page 25 of a 50-page work) is not acceptable.
- V. Repetitive units. The statute says nothing about how often the notice should be repeated when the copyrighted work consists of repetitive or continuous units on sheet-like materials such as textile fabrics, plastics, and paper products.
 - a. The Office will suggest that, if possible, it would be safest under the court decisions to apply the notice directly to every repeat.
 - b. For purposes of registration, the Copyright Office will accept a notice appearing in the selvage or on the reverse side of the material at frequent and regular intervals. For example, in the case of material printed from plates or cylinders on rotary presses, a notice appearing

4.3.6 In classes F-K. (Cont'd)

V. Repetitive units. (Cont'd)

b. (Cont'd)

at intervals representing each revolution of the plate is acceptable.

- c. In certain cases, such as laces or translucent plastics, the material may contain neither a selvage nor a reverse side on which the notice can be applied. Here a gummed or sewn label bearing the notice and made to adhere firmly to the material at frequent and regular intervals may be considered.
- d. In determining whether the notice is repeated frequently and regularly enough, the most important factor is the size of the unit in which the consumer ordinarily buys the goods. Thus, if the material is usually sold by the yard, deposit copies which are one yard long and which show one or more notices may be accepted.

4.3.7 In motion pictures. The Office will recommend that the notice in a motion picture appear on or near the title frame. However, a notice appearing either in the opening frames or at the end of a motion picture is acceptable.

Part 4.4 MISCELLANEOUS

4.4.1 Manuscript notice. Where the deposit copies bear a manuscript notice which appears to have been inserted as an afterthought (e.g., a rubber-stamped or handwritten notice or a typewritten notice on a printed work), the Office records will be checked in appropriate cases to see whether the work was previously submitted and rejected as having been published without notice. If not, the Office will assume (unless otherwise informed) that the manuscript notice appeared on all published copies. In those relatively infrequent cases where it seems clear that such a notice could not have been placed on all published copies (e.g., a handwritten notice on a printed label), the notice will be questioned.

4.4.2 Legibility and visibility.

I. Blurred notice. A blurred notice may be accepted as long as it is legible. But a notice so badly blurred as to be illegible will not be accepted.

II. Microscopic notice.

a. Except as noted in the following paragraph b., a notice so microscopic that it cannot be read without a magnifying glass is not acceptable.

b. Where the work itself requires magnification for its ordinary use (e.g., a microfilm, microcard, or motion picture film), a notice which will be readable when so magnified may be accepted.

III. Concealed notice.

a. A notice which is permanently covered up so that it cannot be seen without tearing the work apart is not acceptable.

Examples:

- (1) A notice which the Office is told is on the margin or back of a painting but which is concealed under a permanent frame or mat

4.4.2 Legibility and visibility. (cont'd)

III. Concealed notice. (cont'd)

a. (cont'd)

Examples: (cont'd)

- (2) A notice which the Office is told is on the bottom of a figurine cemented on a base that conceals the notice.
 - (3) A notice on a print used for a calendar, with the calendar pad securely pasted down over the notice.
- b. A notice which, though not visible on casual inspection of the work, becomes visible upon ordinary use of the work, may be accepted.

Examples:

- (1) A revolving set of disks on which the notice (as well as some or all of the copyright matter) is concealed when the disks are in starting position, but is revealed upon their manipulation as directed.
- (2) A print used for a calendar, with a calendar pad suspended over the notice which is seen when the pad is lifted.

4.4.3 Notice affected by use of work.

I. Notice on tag or container.

- a. A notice on a detachable tag (such as a name or price tag tied to a work by a piece of string) which will evidently be detached and discarded when the work is put in use, is not acceptable. Likewise, a notice on a wrapper or container which is not a part of the work and which will evidently be removed and discarded when the work is put in use, is not acceptable. (Note that the tag, wrapper, or container may itself be registrable as a label.)

4.4.3 Notice affected by use of work. (cont'd)

I. Notice on tag or container. (cont'd)

- b. A notice on a tag affixed with reasonable permanency to the work is acceptable (e.g., a metal tag nailed onto a wood sculpture, a cloth tag sewn into the hem of a scarf, a plastic label sealed to lace by heat process). Similarly a notice on a container in which the work may be expected to be kept by the user may be accepted (e.g., on a box containing a set of cards, or on a folder containing a group of maps).

II. Notice likely to be lost in use of work. Where the work as deposited has a good notice, but there is reason to believe that the notice will be concealed or lost when the work is used, the notice may be accepted, and a warning letter may be sent in appropriate cases.

Examples:

- (1) A mounted reproduction of a painting with notice on the edge of the mounting where it would be covered in framing.
- (2) A decal with notice on the margin or back only, so that the notice will not appear on the decal when transferred to another surface.
- (3) A mold with notice on the margin only, so that the notice will not appear on the figure cast from the mold.
- (4) A motion picture film with notice on the leader which is not projected when the film is screened.

4.4.3 Notice affected by use of work. (Cont'd)

II. Notice likely to be lost in use of work. (Cont'd)

Examples: (Cont'd)

- (5) A work consisting of a perforated page or pages, where the notice appears on the part of the work that contains no copyrightable matter, and the other part will inevitably be detached and distributed without notice.

III. Notice in reverse. Where the deposited work, such as a mold or decal, is the reverse of the product to result from its intended use, the Office will recommend the use of both a reverse notice on the portion of the work that will appear in the product and a regular notice on the margin or back. The reverse notice alone, if otherwise readable, may be accepted with a warning letter.

IV. Dust jacket. A notice on a dust jacket containing copyrightable matter is not acceptable as notice for a book reissued with no other new matter, since dust jackets are removable. (See also topics 4.3.1. II. d.)

4.4.4 Limitations in notice.

I. Limitation not required. Although the claim of copyright, as shown in the application, is limited to a portion of the work (such as new matter), the notice need not specify such a limitation. Where the work contains both copyrightable and noncopyrightable matter, a general notice (e.g., "Copyright 1960 by John Doe") may be accepted.

II. When limitation given.

- a. A notice limited to specified portions or features of the work, if they are copyrightable, may be accepted (e.g., "Introduction and Illustrations Copyright 1960 by Popular Publishing Co." or "Arrangement Copyright 1960 by Newstyle Music Co."). If the limitations in the notice are not shown on the application, it will be annotated.

4.4.4 Limitations in notice. (cont'd)II. When limitation given. (cont'd)

- b. A notice which refers explicitly to noncopyrightable matter as the subject of the copyright is not acceptable.

Examples:

- (1) Where an asterisk follows the brand name in an advertisement and precedes the notice, thereby indicating that copyright is claimed in the name
- (2) In a booklet advertising a system for teaching languages, a notice reading "The Fortnight System copyrighted 1960 by Linguistics Ltd."

Chapter 8

Works First Published Abroad (including Ad Interim Copyright)

Outline of Topics

Part 8.1 IN GENERAL

8.1.1 First publication abroad

- I. What constitutes
- II. Simultaneous publication

8.1.2 Copyrightability of works first published abroad

- I. Publication in a U.C.C. Country
- II. Ad Interim copyright

8.1.3 Effect of first publication abroad

- I. General rule
- II. Exceptions
 - a. Unpublished registration
 - b. Ad Interim registration
- III. Requirements for registration
- IV. Registrability of American edition of work first published abroad
 - a. General rule
 - b. Registration for American edition of work registered ad interim

Part 8.2 NOTICE OF COPYRIGHT

8.2.1 General requirement of copyright notice

- I. First publication abroad
 - a. Heim case doctrine
 - b. Works subject to ad interim registration

Part 8.2 NOTICE OF COPYRIGHT (cont'd.)

II. Later publication

- a. U.C.C. requirements
- b. Later publication in United States

III. Copyright Office policy

- a. No retroactive effect
- b. Deposit copies must bear notice
- c. Notice acceptable at face value
- d. Previous publication indicated

8.2.2. Form and position of notice

- I. In general
- II. Name of the copyright proprietor
- III. Date in the notice
- IV. Position of the notice

Part 8.3. REQUIREMENTS FOR REGISTRATION

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- II. U.C.C. works

8.3.2 Copies and fees

- I. Unpublished works
- II. Published works
 - a. U. S. author
 - b. Foreign or stateless authors
 - c. Waiver-of-fee option

Part 8.4 AD INTERIM COPYRIGHT

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- I. Definition
- II. Cross-references

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- I. Scope of ad interim copyright
- II. U.C.C. exemption
- III. Copyright Office policy concerning ad interim registration

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- I. Time limits
- II. Copy and fee
- III. Works published in installments

8.4.4 Notice of copyright

- I. Notice on copies as first published abroad
- II. Notice on U.S. edition

8.4.5 Importation of copies

- I. In general
- II. Import statement

8.4.6 Extension of ad interim copyright to full t

- I. Statutory provision
- II. Requirements for full term registrati
- III. Extension of subsisting ad interim co rights under U.C.C.

Part 8.2 NOTICE OF COPYRIGHT

8.2.1 General requirement of copyright notice.

- I. First publication abroad. To secure copyright in the United States, works first published abroad must generally bear the statutory copyright notice at the time of first publication; this is true regardless of whether the author is a citizen or domiciliary of the United States, a citizen of a U.C.C. country or of a country not a party to the U.C.C., or whether the work was first published in a U.C.C. country. (As to notice requirements in general, see Chapter 4; as to publication, see Chapter 3.)
 - a. Heim case doctrine. The majority opinion in the 1946 case of Heim v. Universal Pictures Co. suggested that works by foreign authors might secure copyright in the United States by publication without notice abroad.
 1. On the basis of this opinion the Copyright Office for some time registered works first published abroad without an acceptable notice, under the rule of doubt.
 2. The Copyright Office now takes the position that, whatever validity the Heim case doctrine may have had at one time, the doctrine is no longer effective in view of the U.C.C. and later developments. (37 C.F.R. § 202.2(a)(3).)
 - b. Works subject to ad interim registration. Unlike other works first published abroad, books and periodicals subject to ad interim registration need not bear a notice at the time of first publication. (17 U.S.C., §§ 10, 22; see topic 8.4.)
- II. Later publication.
 - a. U.C.C. requirements. The statute (§ 9(c)) provides that the special exemptions for works protected under the U.C.C. "shall apply only if from the time of first publication all the copies of the work published with the authority of the author or other copyright proprietor shall bear the symbol © accompanied by the name of the copyright proprietor and the year date of first publication placed in such a manner and location as to give reasonable notice of claim of copyright."

8.2.1 General requirement of copyright notice. (cont'd)

- b. Later publication in United States. To maintain copyright in a work first published abroad, it is essential that "each copy thereof published or offered for sale in the United States by authority of the copyright proprietor" bear the statutory copyright notice. (17 U.S.C. §

III. Copyright Office policy.

- a. No retroactive effect. The Copyright Office's change in policy with respect to registration for works by foreign authors first published abroad without an acceptable copyright notice became effective on June 18, 1959, when new regulations (37 C.F.R. § 202.2(a)(3)) were adopted. Works published on or after June 18, 1959 will be governed by the new policy; works published before that date will not be refused registration because the copyright notice was omitted or defective, but a warning letter will be sent.
- b. Deposit copies must bear notice. With the exception of works seeking ad interim registration, the copies of works deposited for registration following publication abroad after June 18, 1959 must bear a notice of copyright in the required form and position. However, in evaluating the acceptability of a notice appearing on a work first published abroad by a foreign author, the Copyright Office will apply liberal standards in line with the policy underlying the U.C.C. and various judicial decisions.
- c. Notice acceptable at face value. When the copy or copies deposited for registration of a work first published abroad contain an acceptable notice, registration will be made on the assumption that all copies as first published bore the required notice. Except in the case specified in paragraph d, below, no question will be raised as to whether other copies have ever been published without notice under the authority of the copyright owner, either in the United States or abroad.
- d. Previous publication indicated. Where information appearing in the application, copy or copies, or correspondence in connection with a work first published abroad clearly indicates that an earlier edition of the work has been published, registration for the present edition will be made only if it contains new matter which is described on the application. Where registration for the earlier edition is also desired, a copy (or copies) of that edition should be deposited. (See topic 5.2.2.1.h.)

8.2.2. Form and position of notice.

I. In general.

- a. As a rule, registration will be made for a work first published abroad if it bears a copyright notice satisfying the ordinary requirements of §§ 19 and 20 of the Code. (See Chapter 4.)
- b. Registration will be made for a work eligible for protection under the Universal Copyright Convention (see Part 7.2) if it bears a notice satisfying the U.C.C. requirements specified in § 9(c) -- the symbol ©, accompanied by the name of the copyright proprietor and the year of first publication, placed in such manner and location as to give reasonable notice of claim of copyright.
- c. Where registrability of a work depends upon the availability of the U.C.C. exemptions of § 9(c), the copies as first published should bear the special U.C.C. notice (see paragraph b., above). Where the notice in such a case meets the ordinary requirements of § 19 but not the U.C.C. requirements of § 9(c), registration will be made under the rule of doubt, and a cautionary letter will be sent.

Examples:

1. Notice includes "Copyright" or "Copr." instead of ©.
 2. Notice on pictorial work does not include year date.
- d. Where the notice on a work first published abroad meets neither the requirements of §§ 19 and 20 nor those of § 9(c), full-term copyright registration will be denied. However, if the work is an English-language book or periodical, ad interim registration may be possible.

II. Name of the copyright proprietor.

- a. As a general rule, the notice appearing on a work first published abroad should contain the name of the owner of the right to secure U.S. copyright on the date of first publication, and registration should be made in that name.

8.2.2 Form and position of notice. (cont'd)

- b. Where the foreign edition bears one notice, and it agrees with the claimant named in the application, registration will be made in that name, even if the copies refer to someone else as the owner or licensee of U.S. rights.

Examples:

1. Notice reads: "© Xavier Kumquat 1958 -- Wow and Flutter Music Publishers, Exclusive Licensees for all Western Hemisphere Countries." Registration will be made in the name of Kumquat without question.
2. Notice reads: "© Charles Brown Ltd., Lond 1959; For U.S.A. and Canada, Brown Music, Inc., New York." Registration will be made in the name of Charles Brown Ltd., without question.

- c. Where the foreign edition bears one notice which agrees with the claimant named in the application but specifically excludes the United States from its effect, registration should be refused.

Example: Notice reads: "© Charles Brown Ltd., 1959, for the entire world (excluding U.S.A. and Canada)."

- d. Where the foreign edition contains two separate copyright notices, and the name in one of the notices agrees with the claimant named in the application, registration will be made, unless the other notice is specifically identified as applying to the U.S. copyright.

Examples:

1. Notices: © Editions Maldemer 1958
© Drainboard Pub. Co. 1958

An application in either name will be accepted.

2. Notices: © Elaine Fairchild 1958
© in U.S.A. by Bang and Whimper
Scientific Publications 1958

An application in the name of Mne. Fairchild will be questioned.

8.2.2 Form and position of notice. (cont'd)

II. Name of the copyright proprietor. (cont'd)

3. Notices: © Peter Rabbit Music Co., Ltd.,
London, 1959, for the entire
world (excluding U.S.A. and
Canada)
© Peter Rabbit Music, Inc., New
York, 1959, for U.S.A. and Canada

An application in the name of Peter Rabbit
Music Co., Ltd., London, will be questioned.

e. Where the foreign edition bears a notice that disagrees
with the claimant named in the application, the vari-
ance will be questioned.

1. If the person named in the notice was the owner of
the right to secure U.S. copyright on the date of
first publication abroad, the Office will request
that registration be made in his name, and will
point out the possibility of recording an assign-
ment.
2. Where the work is an English-language book or peri-
odical which would have been subject to the manu-
facturing requirements unless published with the
U.C.C. notice provided in § 9(c), registration on
Form A-B Foreign will be made only in the name in
the notice; recordation of an assignment will be
suggested where appropriate. In such a case reg-
istration in the name of someone other than the
person named in the notice will be considered only
on Form A-B Ad Interim.

Example: An English-language book by a British
author is manufactured and first pub-
lished in the United Kingdom with a
notice in the name of Colin Outsider;
an application is submitted in the
name of The Insider Press, Inc., a
U.S. publishing firm. Registration
on Form A-B Foreign will be made only
in the name of Outsider; if the appli-
cant wishes registration in the name
of The Insider Press, Inc., he must
apply for ad interim registration on
Form A-B Ad Interim.

3. In cases other than those described in paragraph
2, above, where the name in the notice was not
that of the owner of the right to secure U.S.
copyright on the date of first publication:

8.2.2. Form and position of notice. (cont'd)

II. Name of the copyright proprietor. (cont'd)

- (a) Registration in the name in the notice, with the recordation of an assignment or similar document, will be suggested.
- (b) Registration in the name of the person who the right to secure U.S. copyright on the date of first publication will be discouraged, but will not be refused; the application will be annotated to show the name in the notice.
- 4. Where the U.S. edition of a work originally registered ad interim contains no new matter, registration will be made in the name in the notice on the American edition. If the name is different from that in which ad interim registration was made, and if no assignment has been recorded, a cautionary letter may be sent.

III. Date in the notice.

- a. As a rule, the requirements governing the use of the year date in the notice, as outlined in topic 4.2.4, apply equally to works first published in the United States and those first published abroad.
- b. Where the U.S. edition of a work originally registered ad interim contains no new matter, registration will be refused unless the notice contains a year date not more than one year later than the year date of first publication abroad. (37 C.F.R. § 202.2(6)(iii))

IV. Position of the notice.

- a. A notice that would meet the ordinary position requirements of § 20 (see part 4.3) if the work were first published in the U.S. would be equally acceptable if the work were first published abroad.
- b. Where the author of a work is not a citizen or domiciled of the U.S., and the author is a citizen of a U.C.C. country or the work was first published in a U.C.C. country, the position requirements are satisfied if the notice is "printed in such manner and location as to give reasonable notice of claim of copyright." Where, in such cases, the notice is a substantial departure from the ordinary requirements of § 20, a cautionary letter may be sent.

Examples:

- (1) Notice on last page of book; accept as "reasonable" but send cautionary letter.
- (2) Notice on page 213 of 650-page book; reject.

No. 18

NOTICE CONTAINING THE YEAR DATE IN WHICH
COPYRIGHT WAS SECURED PLUS AN EARLIER DATE
OR DATES NOT APPLICABLE TO THE WORK

This memorandum concerns our procedure in cases where there are two or more year dates in the copyright notice and we have ascertained that the earlier date or dates do not refer to anything. In this situation, copyright in the entire work has been secured in the last year named in the notice, and there is no previous registration or publication to which the earlier dates might refer. The question raised by such a notice, of course, is whether the earlier dates have any effect on the term of copyright.

Since this question has apparently not been decided by the courts, no "antedated notice" warning letter or circular should be sent. On the other hand, the question is not wholly free from doubt. Therefore, the application and certificate should be annotated in all such cases to show the dates in the notice.

No. 19

ANNOTATION IN ANTEDATED NOTICE CASES
WHERE THERE IS MORE THAN ONE YEAR DATE
IN THE NOTICE

Frequently we have antedated notice cases where there is more than one date in the notice. For example, a work published in 1966 with new matter may bear a notice containing a 1961 and 1965 year date. The 1961 year date refers to a previous unpublished registration or to an earlier published edition and the 1965 year date is intended to cover the version published with new matter in 1966. The question then arises whether the antedated notice annotation should read "In notice: 1961, 1965" or "In notice: 1965."

It is our general policy to include all of the year dates in the annotation. The inclusion of only one of the year dates when several are in the notice creates a false picture of the notice and under certain circumstances could have serious consequences.

In cases where the notice contains many dates so that it would be impractical to show them all in the annotation, the following legend may be used, "In notice: series of _____ year dates from _____ through _____."

No. 27

USE OF PSEUDONYMS IN THE COPYRIGHT NOTICE

One of the essential elements of the required statutory notice on a published work is the name of the copyright owner or proprietor, that is, the name of the person or organization legally entitled to the copyright at the time of first publication. Generally, unless the name in the notice identifies someone who is entitled to secure the copyright, registration of the claim to copyright would not be authorized.

Whether the use of a pseudonym in the notice satisfies the statutory requirements is not altogether clear. The problem arises from the fact that one of the principal purposes of the copyright notice is to identify the copyright owner to the public, whereas a pseudonym may be used to conceal that identity. Since it is desirable that our actions be consistent throughout the Division, the following practices will be adopted.

1) If the work is unpublished and bears a copyright notice containing a pseudonym or other fictitious name, the use of such a notice at the time of publication will be discouraged unless the pseudonym actually discloses the identity of the person or organization legally entitled to claim copyright. Since one of the principal purposes of the notice is to identify the copyright owner to the general public, a name associated with the owner in the mind of the public is always desirable.

2) If the work has been published with a pseudonym or other fictitious name in the copyright notice, our action will depend upon whether the name in the notice is capable of identifying the copyright proprietor to the public.

- a) Where the owner's identity is well known under the pseudonym or other fictitious name the application will not be questioned, even though the relationship between the two names is not disclosed on the application.

However, if the relationship between the two names is not disclosed on the application, the name of the copyright claimant given in the application must agree with the name appearing in the copyright notice. Example: in the case of a work copyrighted by Mark Twain, the application will not be questioned merely because it names Mark Twain as copyright claimant and author, since the author was as well known under his pseudonym as by his real name, Samuel Clemens.

- b) Where the pseudonym or other fictitious name is incapable of identifying the copyright proprietor to the public, the claim will be rejected. Examples: John Doe, pseudonym of _____; or, Any Man, U.S.A., pseudonym of _____.
- c) In all other cases where we have knowledge that the name in the copyright notice is pseudonymous or fictitious, we will inquire whether the name in the notice is capable of identifying the copyright proprietor to the public. Our letter should inform the applicant of the desirability of using the owner's real name in the notice since the use of a pseudonymous or fictitious name may create some doubt affecting the validity of the copyright claim. Ordinarily, we will not question an applicant's assertion that the public associates the pseudonym or other fictitious name with the true copyright owner.

3) When the copyright notice contains a pseudonym or other fictitious name, except for those cases described under 2)a) above, the relationship between the pseudonym or the fictitious name and the recognized name of the person or organization legally entitled to claim the copyright should be disclosed on the application. The disclosure should be explicit, and may

appear in connection with the name of the copyright claimant or the name of the author shown on the application, or, preferably, both. For example, assuming that the name in the notice contains the pseudonym "WELLS DREIGH," the claimant should be identified on the application as follows: "WELLS, DREIGH, pseudonym of Eli Winthrop." The name of the author on the application should be accompanied by his pseudonym within parentheses: "Eli Winthrop (WELLS DREIGH)." Whenever there is a difference between the name in the notice on the copies and the name of the copyright claimant given on the application, the discrepancy may be resolved by adding an annotation to both the application and certificate, provided, of course, the relationship between the two names is explicitly disclosed elsewhere on the application.

NOTE: It is clear that nothing in the law prevents the author from writing under a pseudonym or remaining anonymous. No problem arises unless the pseudonym or fictitious name appears in the copyright notice. When an author wishes to conceal his identity, he may wish to arrange with his publisher so that at the time of first publication his publisher (or another) will be "the person or organization legally entitled to the copyright."

No. 29

SINGLE PAGE RULE FOR COPYRIGHT NOTICES

The following practices should be observed in examining claims to copyright in single page works.

A copyright notice appearing anywhere on a single folded sheet may be accepted in Classes A, B, D, E, and F through K. This rule applies only if the folded sheet may, unopposed by any mechanical device (such as stitching, stapling, etc.), be opened out into one single sheet.

The basis for this rule is that in many cases involving folded material the "faces" or "pages" are not paginated and the folds are such that it may be difficult to ascertain which portion of the folded sheet is the title page, the page immediately following the title page, or the first page of text, etc. Thus, the Office considers that the title page can be ascertained only when the sheet is entirely unfolded. If it then appears that an adequate notice is on one side or the other of the unfolded single sheet, registration will not be denied on the grounds of a misplaced notice.

Where registrations are being made on this basis in Classes A, D, and F through K, it will not be necessary to write a warning letter. The rationale here is that since the notice for a book or a dramatic work should appear either "upon its title page or the page immediately following," a notice either on the side of the single sheet containing the title or on the other side would meet this requirement. In the case of works registrable in Classes F through K, the law does not specify any exact position for the notice; consequently, a notice on any accessible portion of the work is acceptable.

However, where registrations are being made in Classes B and E, it may be necessary in certain cases to send a warning letter. The law provides that the notice for a periodical shall appear "either upon the title page or upon the first page of text of each separate number, or under the title heading." Thus, if when the folded sheet is opened out, the notice does not appear on the side of the sheet containing the title, we should send a warning letter since we could not be sure that the other side would be regarded as "the first page of text of each separate number." In the case of a musical composition, the law provides that the notice shall appear "either upon its title page or the first page of music." If, when the folded sheet is opened out, the title page and the first page of music appear together on the same side of the folded sheet and the notice appears on the other side, we should send a warning letter.

No. 35

POSITION OF THE COPYRIGHT NOTICE ON COMPUTER PROGRAMS
OF DOMESTIC ORIGIN FIRST PUBLISHED IN THE FORM OF
MACHINE READABLE TAPE OR MACHINE PUNCHED CARDS

In accordance with a decision made in April 1964, the Copyright Office will accept computer programs for registration as "books" in Class A, provided they contain the requisite amount of authorship and meet the other registration requirements.

Where a program is first published in the form of punched cards or on magnetic tape, the work does not have "pages;" this raises the question of compliance with the requirement that the notice on a "book" appear either on the title page or the page immediately following the title page. While this provision cannot be ignored, it should not be given an unreasonably strict construction. The following general guidelines should govern these cases.

Our present practice requires a print-out of the entire program to accompany the deposit copies where first publication was in a form that cannot be perceived visually or read by humans. As a general rule, the position of the notice should be considered acceptable if it appears on the same page or fold of the print-out as the title of the work. If the notice appears on a page or fold other than that on which the title appears, the nature of the material intervening between the title and the notice should be taken into consideration in determining whether the position of the notice is acceptable. If all, or a part of the substantive body of the work intervenes so that it would be unreasonable to conclude that the notice appeared "on the title page immediately following," registration should be refused.

Where the deposit copies consist of a set of machine punched cards that also bear printed material, a single copyright notice located in an acceptable position will suffice to permit registration of the set. A single card contains only a few words and should not necessarily be equated with a "page." Consequently, registration should not be refused if the copyright notice does not appear on the same card or the card immediately following the one bearing the title. Where several cards intervene between the title card and the card containing the notice, again the nature of the material reproduced on the intervening cards

should be taken into consideration in determining whether the position of the notice is acceptable. If all, or a part of the substantive body of the work is reproduced on the intervening cards so that it would be unreasonable to conclude that the notice appeared "on the title page of the page immediately following," registration should be refused.

Where a work is reproduced on machine punched cards that are packaged in a box or other container intended as a permanent receptacle for the cards, a notice located on the box or other container may suffice if the title also appears on the box or container, notwithstanding the fact that none of the cards themselves bear a notice [See Copyright Office Regulations § 202.2(b)(10)].

[August 1968]

No. 37

THE USE OF A SURNAME ONLY
IN THE COPYRIGHT NOTICE

Generally the presence of only the surname of the copyright owner in the notice of copyright is sufficient for registration purposes, unless the names of one or more other individuals with the same surname appear in a position on the copy that might mislead the public as to the identity of the copyright proprietor.

In those instances where the general practice is followed and registration is made, a cautionary letter should be sent to the applicant explaining that while registration is being made, one purpose of the copyright notice is to identify the copyright proprietor, and that the use of the surname only in the notice may be of doubtful validity.

The following hypothetical cases illustrate this general rule, and set out the practices to be followed in each case.

1. Where the copyright notice contains only the proprietor's surname and the copies do not bear the full name of any individual with that surname placed in such a position that it might mislead the public as to the identity of the copyright proprietor, we should register the claim with a warning letter and an annotation showing that only the surname appears in the notice.

In notice: Smith

On copy : No full name with the surname Smith

In appl. : Claimed by John Smith

Practice : Register with a warning letter and an annotation showing that only the surname appears in the notice. Where it is necessary that we request an application, our letter should instruct the applicant to state the relationship

between the surname and the claimant's name given at line 1. For example, line 1 could read: "Smith, surname of John Smith." An annotation should not be placed on an application showing the relationship at line 1.

2. Where the copyright notice contains only the proprietor's surname and the copies do not bear the full name of any individual with that surname placed in such a position that it might mislead the public as to the identity of the copyright proprietor, and line 1 of the application lists two or more individuals with the same surname as proprietors, we should register the claim with a warning letter and an annotation showing that only the surname appears in the notice.

In notice: Smith

On copy : No full name with the surname Smith

In appl. : Claimed by John Smith and Jean Smith

Practice : Same as example 1.

3. Where the copyright notice contains only the proprietor's surname and his full name appears on the copies we should register the claim provided the copies do not bear the full name of any other individual with that surname placed in such a position that it might mislead the public as to the identity of the copyright proprietor.

In notice: Smith

On copy : John P. Smith

In appl. : Claimed by John P. Smith

Practice : Same as example 1, except where registration is being made in Classes F-K. Because of the statutory notice provisions for works in Classes F-K, registration should be made without either a warning letter or an annotation.

4. Where the copyright notice contains only the proprietor's surname and his full name appears on the copies, but the full name of another individual with the same surname who is not included as a copyright proprietor on line 1 of the application also appears on the copies in such a position that it might mislead the public as to the identity of the copyright proprietor, we should correspond to ascertain whether the name of the other individual is entitled to be listed on line 1 of the application as a copyright proprietor. If the correspondence reveals that the other individual is also entitled to claim copyright in the work, a new application should be requested with the appropriate explanatory statement given on line 1. In the event the other individual whose name appears on the copy is not entitled to claim copyright in the work, with the exception of works falling in Classes F-K, registration must be refused on the ground that use of the surname alone in the notice under these circumstances fails to adequately identify the copyright proprietor. Registration with a warning letter may be made under these circumstances for works falling in Classes F-K.

In notice: Smith

On copy : Jean Smith and John Smith

In appl. : Claimed by John Smith

Practice : Correspond to ascertain whether Jean Smith is also entitled to claim copyright in the work, in which case a new application should be filed with the statement "Smith, surname of John Smith and Jean Smith" appearing on line 1. If correspondence reveals that "Jean Smith" is not entitled to claim copyright in the work, registration must be refused in classes other than F-K on the ground that use of the surname alone in the notice under these circumstances fails to adequately identify the copyright proprietor. If the work falls in Classes F-K and correspondence has revealed that "Jean Smith" is not entitled to claim copyright in the work, registration should be made with a warning letter.