



# *Author Services, Inc.*

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*Representing the literary, theatrical and musical works of L. Ron Hubbard*

May 3, 2013

U.S. Copyright Office  
James Madison Memorial Building  
101 Independence Avenue, S.E.  
Washington, DC 20559-6000

**Re: U.S. Copyright Office Notice of Inquiry (NOI)  
Technological Upgrades to Registration and Recordation Functions  
Docket No. 2013-2**

Dear Sirs:

The following is the information I would like to provide in response to the above Notice of Inquiry.

(1) How stakeholders use the current online offerings of the Copyright Office, especially with respect to registration and recorded documents, and how the current offerings meet, fail to meet, or exceed user expectations.

## CURRENT ONLINE COPYRIGHT REGISTRATION FORM

Since I started to file registration applications using the online registration form in late 2008, I have filed a total of 742 registration applications (468 have closed and registered; and 274 were filed in the past year and are still open) using the online registration form. I no longer use paper registration applications for TX, PA, VA, SR and have only used paper applications for Forms CA and RE—which have been extremely few due to the current very high filing fees for these forms.

Overall, I definitely like the new online registration and examination system and consider it to be substantially better than the paper applications system that it replaced. I have some suggested points to improve upon this but did want to note that while NOI notes that “numerous interested parties have observed that the current user interface for electronic registration is a challenge to navigate”—I have not found that it is a challenge to navigate and it works just fine with my internal workflows.

I am sure that if the Copyright Office had the unlimited resources of Microsoft’s programmers that they could come up with a wiz-bang set up—but I would ask that they make

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some small improvements on the existing set up to make it better and put the Copyright Offices resources onto engineering and computerizing the recordation side of the Office which vitally needs it. We do not need, right now, a registration system that fits with everyone's individual "internal workflows" and or having "a personalized registration system dashboard."

I utilize the templates part of the online registration application a lot to help speed my work through the applications since the basic information is the same and only needs to be revised to fit the facts of the work being applied for. Being able to use templates is extremely useful and saves a lot of time.

When an examiner has a question and/or rejects an application, the question/reject is sent and responded to via email. Any amendments needed are handled and authorized again via email. This all saves a significant amount of time as such correspondence in the past via mail used to take months and sometimes it took years (no kidding) or the correspondence files were lost. Once resolved to the satisfaction of the examiner, the claims usually clear quite fast—sometimes the same day. Again, all considerably faster than the prior paper system that it replaced.

The few things that I would like to suggest to be improved on the current online registration system is as follows:

- a) The online copyright registration form needs to be better aligned to the paper forms that it replaced. Specifically, the paper forms asked in Section 5 affirmatively whether the work, for which the applications applies, was previously registered with the Copyright Office with a choice of answers—"Yes" or "No". The current electronic form does not ask this and I had over 100 applications rejected in December 2011 whereby the examiners were asking whether the works are previously registered and or not.
- b) Same with filing the published version of a previously registered unpublished work, this was on the Form TX and Form PA but this is not part of the online application.
- c) Under the Title Section, it would be good to have as an alternate title pull-down option as "translated title" for the registration of translations.
- d) The page number of the contribution from the Title Section does not show up on Review Section—it does not show on the form even though it has been filled in. To handle this, I have to go back to the Title Section of the form, hit the continue button and then go back to the Review Section and then the contribution page shows up.
- e) I have had a few instances where the deposit copies for about 8 applications were lost and new deposits had to be re-filed. Perhaps the tracking of the deposits with the claims could

be improved since lost deposits are costly for the applicant and costly time wise for the Copyright Office.

I would also recommend that a survey be done internally of the Copyright Office registration examiners to find out what the common errors made by applicants are that then generate correspondence or extended time requiring the examiners to amend the applications. These common errors along with what to do about them could be posted on the Copyright Office website for use by those making applications as a sort of “Dos and Don’ts”. This would avoid and/or reduce correspondence and examining times by the examiners and thus would reduce the costs and processing times of the Copyright Office for reviewing the applications. I would certainly use it and refer to it before filing claims to ensure I was doing them in the most efficient manner for both myself and the Copyright Office.

### COPYRIGHT RECORDS SEARCHING/ACCESS

I often use the online searching of the card catalog to check on or determine the registration of a work and to determine the owner of a work.

As you know the pre-1978 registrations and renewals are not available at all online and can only be accessed by an in-person visit to the Copyright Office. The post-1978 registration and renewal records are available online, but only the most basic information. Sometimes other details on the registration are needed as well—like special relief concerning the deposit, correspondence for the registration, etc. But more importantly, if I need a copy of the registration certificate, I have to go to the Copyright Office in-person for pre-1978 registrations and make a request to get a certificate for post-1978 which could take weeks to obtain.

I search for the ownership of a particular work and while going through the online records there is not enough information to determine the ownership if there is a transfer and the contact information of the parties and/or owner and/or new owner are not available as part of the online card record. It must be obtained either by visiting the Copyright Office in person and pulling the record or by researching the owner’s name using other online research sources.

In fact, I cannot determine from the online records the contact information for any owners, authors, etc. at all. Address availability cannot be found online—or at least not that I have ever been able to find.

I recorded a document for an address change a year or so ago that showed an address change for the owner following the Copyright Office publication SL 30 A - Changing Your Address. In searching the online records, I found that the address change document was recorded, but the actual new address in the address change document is not available online.

## RECORDATION

I have recorded assignments and documents to record ownership by title and registration/renewal numbers with the Copyright Office.

I have mailed to the Copyright Office assignments and documents to be recorded and got them back some time later, recorded—but burnt and damaged as they had put through the radiation machine that all mail to the Copyright Office must go through. Since that time, I now file all documents and deposits by hand with the Copyright Office public office to avoid this occurring.

One success of the current system I would like to communicate, which I consider very valuable to preserve in whatever new system is developed, is that when you get a recorded assignment or document back from the Copyright Office it includes a certificate of recordation on top of the assignments or documents. The recorded assignments or documents are also stamped, on each of the pages; with the Copyright Office recording number and page number which. From the numbers and the information on the certificate, you can tell that the assignments or documents are complete—there are no missing pages or incorrectly placed pages. I have in infringement litigation cases used such recorded assignments to successfully prove chain of title—but these points were definitely part of getting acceptance from the Judge and giving less room for the opposition to challenge the assignments and documents.

## DEPOSIT COPIES

Evidence of what has been deposited with the Copyright Office for registration is important in infringement litigation to ward off any challenges to the validity of the registration. While one can show often utilize records and testimony to prove the validity of a deposit copy, it is not a for-sure argument and costly. One way to offer irrefutable evidence to produce certified deposit copy from the Copyright Office or at least a copy of the deposit stamped as received by the Copyright Office with the registration number stamped inside.

However, the Copyright Office no longer stamps the deposit copies as having been received with the registration number (a practice they stopped in October 2006). This is further hampered by sometimes the deposit copies not being able to be located by the Copyright Office for certification and length of time and costs to obtain certified deposit copies. It is sometimes possible to obtain copies of the deposit copies from the Library of Congress (having received them from the Copyright Office) or even other libraries, but without the Copyright Office stamps, they will no longer be as strong as evidence.

There is one possible point that could be useful. With the new electronic registration form, there is a space to include the ISBN of the work being registered and when the registration certificate is received, the ISBN is on the certificate. If the Copyright Office examiner is verifying that the ISBN on the application is the same as that on the deposit copy as part of the

application review, it might be possible in Court to use that as proof of what was actually deposited with the Copyright Office. If this is the case, it would be useful to have something from the Copyright Office saying this and it might go a long way to solving the above situation.

Another possible solution is being able to submit a 3<sup>rd</sup> deposit copy with the application and have the Copyright Office examiner stamp the 3<sup>rd</sup> copy as having been received by the Copyright Office and the registration number and then return the 3<sup>rd</sup> copy deposit to the applicant.

(2) How stakeholders would like to interact with the Copyright Office electronically in the future, or, put differently, what online services, or aspects of existing online services stakeholders would like to see.

#### ONLINE COPYRIGHT REGISTRATION FORM

There should be an easy means of tracking the online registration applications and finding out about an outstanding application that has gone beyond normal time for processing an application as given on the Copyright Office's website. This could be an online form to fill out that a Copyright Office employee would check out and responded to, or an email contact address or phone number.

There should also be a mechanism or contact information for the scenario whereby an online registration application was closed but the registration certificate has not been received within a reasonable time e.g. who to contact and how to get it handled so that the missing registration certificate can be obtained.

It would also be helpful if there was some means to electronically attach to the online registration application form a PDF of a cover letter that provides additional information to assist with the review of the application by the Copyright Office examiner for claims that are more complicated or where additional information to anticipate an office action would allow for a swifter examination by the Office and clearing the application for registration.

#### COPYRIGHT RECORDS SEARCHING/ACCESS

The ability to update contact information by the copyright owner with the Copyright Office would be good so long as it is truly them and can be verified. But the main thing is that it has to be accessible online and it is not right now. Only hardcopy in the CO can be used to find this information.

With ISBNs now being added to registration certificates, you should be able to search the Copyright Office records by ISBN.

## RECORDATION

Some form of an online recording of assignments and documents would be really good so long as we could be able to print something official that would be accepted by the courts as described in detail above. An additional point concerning this could be that the person making the filing could fill-in an online form the titles and registration numbers and then attach a PDF of the actual document being recorded. This might save a lot of time by Copyright Office staff and thus make it more realistic to implement such a system.

## INTERNATIONAL HARMONIZATION

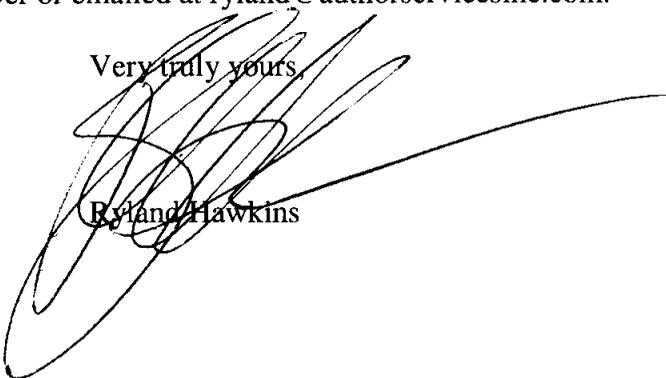
This might not be totally appropriate but I bring it up as I feel it should be taken into account as part of what is worked out concerning registration and recordation and our working with other countries on the same subject.

One of the main reasons we register and record is for proof of authorship and ownership. These are important points affect the enforceability of copyrights on an International basis.

In a survey done by WIPO of all member countries asking for each countries registration and recordation rules and procedures in July 2010, WIPO found that "It can be noted that, in general, courts recognize copyright registrations carried out by public authorities in other countries." And that "There is no provision in the United States of America copyright statute to recognize copyright registrations effected by public authorities in other countries". While I understand that under US law, a foreign person does not need to register to bring an infringement suit in the US and possibly that is why the US does not recognize the registrations of other countries, it is not the point I am trying make. I feel like it would be useful for the US to officially recognize the registrations and the recordations of other countries and that they in-turn officially recognize the US Copyright Office registrations and the recordations. While the WIPO survey and report indicate "in general, courts recognize"—it is not a certainty and it is not all member countries and it would be of great benefit to have it be official and not be subject to decisions from the courts to ensure US copyright owners can enforce their copyrights Internationally using US Copyright Office registrations and the recordations.

If there is any further information that I can provide, please let me know. I can be contacted at the above address and phone number or emailed at [ryland@authorservicesinc.com](mailto:ryland@authorservicesinc.com).

Very truly yours,

  
Ryland Hawkins