

# **UNITED STATES COPYRIGHT OFFICE**

**Notice of Inquiry: Copyright Office Fees**

**Docket No. 2012-1**

## **COMMENTS of MOTION PICTURE ASSOCIATION OF AMERICA**

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**COMMENTS**  
**of**  
**MOTION PICTURE ASSOCIATION OF AMERICA**

Motion Picture Association of America, Inc. (MPAA)<sup>1</sup> submits these comments in response to the Notice of Inquiry ("Notice") published in the Federal Register on January 24, 2012, at page 3506.

The Notice seeks comment on, inter alia, whether the Copyright Office should expand, improve or add to its offerings of special services and corresponding fees with respect to its copyright registration system. MPAA herein expresses its views on this issue and respectfully offers comments on related Copyright Office registration practices and procedures.

At the outset, MPAA wishes to commend the Register and her staff for their dedication to making the copyright registration system effective and efficient, and their openness to possible improvements to the system. MPAA is mindful of the enormous task the registration process entails, and applauds the hard work of all those engaged in this important undertaking.

**Expedited Services** – Currently, a registration applicant can request expedited services for a considerably higher fee (an additional \$760 per claim) only in the event of a “compelling need.” In these Special Handling cases “every attempt is made to process the claim or recordation within five working days.” However, in practice, it can take much longer, frequently two weeks and

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<sup>1</sup> MPAA members include Paramount Pictures Corporation, Sony Pictures Entertainment, Inc., Twentieth Century Fox Film Corporation, Universal City Studios LLC, Walt Disney Studios Motion Pictures, and Warner Bros. Entertainment, Inc.

sometimes a month or more, to process such claims. Some of this time is required to determine whether the claim qualifies for Special Handling, i.e. whether there is a compelling need for the service due to pending or prospective litigation, customs matters, or contract or publishing deadlines that necessitate the expedited issuance of a certificate of registration.

MPAA recommends that the Copyright Office consider adopting a fee schedule with differing fee levels based on processing time (e.g., five/ten/fifteen working days), and dropping the “compelling need” requirement. For instance, the Special Handling fee of \$760 could be required for applications processed in five days, with lesser fees required for applications processed in ten or fifteen days. While this might increase the number of Special Handling requests, it would also increase Copyright Office revenue and, by eliminating the need to determine whether the applicant has met the compelling need test, actually reduce the burden of processing such requests.

Expedited processing of requests for deposit copies that are subject to active litigation is of particular importance. Because defendants often have to respond to complaints before they have an opportunity to review the plaintiff’s work, they cannot bring what otherwise would be meritorious motions to dismiss a copyright infringement claim on the basis of lack of substantial similarity as a matter of law. It would be helpful if the Copyright Office could implement an expedited service option specifically for deposit copy retrievals in instances where litigation has actually commenced. Such an option should assure that deposit copies are retrieved and copied within 1 to 2 weeks.

**Filing Applications On-line** - The Copyright Office has made significant progress to increase the speed of filing applications on-line. We understand that work is on-going to make further improvements, including the creation of a one-page, fill-in form. MPAA supports such efforts and specifically recommends the following steps to make the on-line filing system speedier and more efficient:

- a. **Make web pages fit the screen.** Presently, pages are oversized and do not fit the screen. It is also inconvenient and time consuming to use the vertical and horizontal scroll bars to add data or to click link buttons.
  
- b. **Reduce the amount of pages/screens to complete the e-filing.** There should be a single page that represents the actual application. This would be similar to filing an on-line copyright application using the Canadian system. For example, under the current system there are twelve Links (Screens Categories) and additional Sub-Screens one needs to page through then save just to add or change information. One must click the Title Link, then go thru two pages just to add a title of a work and SAVE. Similarly, using the Author Link, there are three pages one must go through and save each page individually.

**Deposit copies** -- Currently the Copyright Office will not accept certain forms of deposit copies electronically (e.g., Artwork, Posters, One Sheets, Packaging Material and Inserts (Video Games), Texts – including Books, magazines, comic books, pamphlets). Although MPAA understands the interest of the Copyright Office in having the as-published version in its records, it would be much more efficient for copyright owners in terms of delivery, and for the Copyright Office in terms of process and storage, if such copies were accepted in electronic form.

**Correcting eCO Applications** – Currently, the only way to correct an application is to wait for the wrong registration to be processed and then fill out a paper Form CA for an additional \$100 fee. Because of the limitations of the “review” screen on eCO, the user cannot see all the metadata that has been placed in the eCO application until after the checkout process has been completed. As a result, some errors are not able to be identified until it’s too late to correct them.

We understand that Copyright Office staff is also considering improvements in this area and MPAA would specifically recommend that the eCO system provide flexibility to allow users the

opportunity to correct eCO applications during two different points in the registration process:

- a. **After Shopping Cart.** The eCO system should allow a user to correct an eCO application after it has been placed in the Shopping Cart (before checkout) with no additional fee.
- b. **In Process.** If a user needs to correct an eCO application that is already checked-out and is In Process, the user should be able to do so at an additional fee of \$35 to cover the cost of re-verification by the Examiner.

**Pre-Registration Fees** - The current fee for pre-registration is \$115, compared to \$35 for an eCO application. Yet pre-registrations require much less scrutiny by examiners and no certificates are actually issued. MPAA recommends that pre-registration fees be set at a level more reflective of the burden placed on the Copyright Office to process such applications. A \$35 pre-registration fee would appear more than adequate to defray the costs of processing such applications.

**Deposit Account Statements** – Currently, paper deposit account statements are mailed out to each account holder every month. MPAA recommends that these statements be made available electronically. This would save the Copyright Office each month on paper and postage. In addition, applicants should be allowed the flexibility of amending contact information on their deposit accounts directly thru eCO (rather than having to write to the C.O. to amend contact information).