



## **Subjects of Inquiry for Strategic Plan for Recordation of Documents**

### **Comments Submitted by Screen Actors Guild – American Federation of Television and Radio Artists**

**March 14, 2014**

Screen Actors Guild – American Federation of Television and Radio Artists (“SAG-AFTRA” or the “Union”) is the nation’s largest labor union representing working media artists. SAG-AFTRA represents more than 165,000 working men and women in the entertainment industry. We have a daily and integral connection to the Copyright Office. Each year, we record hundreds of secured interests and associated documents relating to the copyright of Union-covered motion pictures in order to secure the payment obligations of producers who employ our members. We also require those producers to register their works and record the chain-of-title with the Copyright Office. When we are not tracking and filing chain-of- title, script registrations and our security interest documents, we are searching the Copyright Office Catalogue to confirm the status of rights transfers, secured interests and the registration of subject or related works. We have a vested interest in the outcome of this process and we appreciate the opportunity to provide comment.

Below are notes in response to the subjects that affect SAG-AFTRA’s daily process.

#### **1. A Guided Remitter Responsibility Model of Electronic Recordation**

##### **Processing Time**

To reduce processing time, and enhance accuracy, SAG-AFTRA supports a standard electronic process that might include simple “fill-in-the-box” questions for the remitter of assignments or transfers such as:

What is the current title of the work?

What was the former title?

What are the alternate titles?

Who is granting rights in the work?

Who is receiving rights in the work?

What is the effective date of the agreement?

What is the execution date of the agreement?

What is the title of the agreement?

The answers to these questions could then populate a standard form which would be “Accepted” by the remitter and deemed accurate as a matter of public record.

With each recordation, we manually identify a standardized set of information on the Document Cover Sheet, such as company name and address. If the USCO were to establish an account, or a profile containing all of a user’s recurring, standardized information, both remitter and document specialist time would be saved and the margin of error reduced.

### **Remitter bears the burden of the submission**

Requiring the remitter to electronically “Accept” or “Certify” the submitted information means that any inaccuracy would be construed against the remitter in actions involving that document. This would reduce the scope of a recordation specialist’s task in deciphering each document and enhance consistency between values on the electronic submission and the actual document.

### **Inaccuracies**

Dropdown boxes with a standard and commonly defined list of values would help reduce the margin of error associated with remitting documents online by narrowing the options that may be selected and reducing the amount of “open ended” free form text fields to enter information.

### **Costs**

SAG-AFTRA supports implementing a guided model to accommodate electronic document recordation as a means to reduce recordation fees and associated postage costs. Current cost for security agreements, interparty agreements, assignments of rights, and termination agreements with one title is \$105; for multiple titles, \$135. Postage compounds the cost per filing. Since we record so many documents each year, electronic recording would be a substantial benefit to the Union and potentially motion picture producers as well.

The other cost associated with document recording is time. As a non-profit organization, our resources are limited. Electronic recording would save substantial time currently spent in printing electronically received documents, copying originals, manually drafting document cover sheets for each transaction, obtaining signatures for certified copies of originals, and preparing mailings.

### **Acceptance of Electronic Signature**

As times progress, the transmission, acknowledgement and acceptance of the electronic signature also continues to progress. Since the commerce of documentation has shifted increasingly to the electronic medium, the electronic or electronic copy of the original signature has become commonplace in global transactions.

The Copyright Office's acceptance of an electronic copy of a signature (or an electronic signature) would reduce the time and cost of recordation much in the way it has for the electronic registration of copyright in the claimant library. The certification and acknowledgement of a signature's authenticity may be electronically "accepted" with the click of a button the way we accept Apple's terms and conditions when we download music or when a party electronically files documents in a case that has been filed in court.

### **2. Structured Electronic Documents**

SAG-AFTRA believes that mandating a format for documents submitted electronically is unnecessary and unduly burdensome for individuals and companies required to revamp all of their documents. It certainly would be a burden for us, and we would have no control over formats used by producers from whom we require documentation.

### **3. Linking of Document Records to Registration Records**

The use of a field to hold the registration number in a pre-set format would enable useful linking of recorded documents. However, this would be problematic because the registration numbers are typically not available at the time of execution or recordation of the subsequent (or previous) documentation related to a work. There should, however, be the option to enter the number where it is available for a more robust and targeted search result.

The Copyright Office might consider evaluating how documents are linked to a legal case, for example in federal court, where every document filed in relation to a matter is identifiable by a court issued case number, to see if such linking is practical where there is an overarching number associated with an original work, like a script or other such writing which then may evolve into an adaptation and ultimately a motion picture.

### **4. Use of Standard Identifiers and Other Metadata Standards**

For purposes of recording interests in audiovisual works such as motion pictures, standardized codes or numbers may not be appropriate. However, key word searching linked to the content of recorded documents would be invaluable in the search process.

## 5. **Other Statutory Incentives**

We disagree with reinstating the requirement that the chain of title be recorded for a transfer to be valid. Chain-of-title can be voluminous, and cover decades. With copyright in any project lasting sometimes a century or longer, parties acquiring rights later in a project's life cycle would have had no control over the handler of much order and related transactions and would be unduly burdened by such a requirement.

We also would be concerned about linking the validity of a transfer of copyright to its having been recorded. Copyright moves among and between parties at all levels of sophistication, from fledgling creators to sophisticated multi-national interests. The right to transfer an interest in copyright should not be contingent on such sophistication.