the Office may rely on this process somewhat more in this proceeding to the extent it believes it would be useful to provide a final opportunity for proponents, opponents or others to supply missing information for the record or otherwise resolve issues that the Office believes are material to particular exemptions. Such requests for responses to questions will take the form of a letter from the Copyright Office and will be addressed to individual parties involved in the proposal as to which more information is sought. While responding to such a request will be voluntary, any response will be need to be supplied by a specified deadline. After the receipt of all responses, the Office will post the questions and responses on the Office’s Web site as part of the public record.

5. Recommendation and Final Rule

Finally, in accordance with the statutory framework, the Register will review the record, consult with the Assistant Secretary, and prepare a recommendation with proposed regulations for the Librarian. See Conference Report at 64. Thereafter, the Librarian will make a final determination and publish the exemptions in the Federal Register for later codification in title 37 of the CFR 17 U.S.C. 1201(a)(1)(D).

6. Schedule of Proceedings

As noted above, petitions for proposed rulemaking are due on November 3, 2014. After the Office publishes the notice of proposed rulemaking, it intends to give proponents at least 45 days to prepare and file their evidentiary submissions. The opponents will then have at least 45 days to respond, followed by a reply period of at least 30 days. The Office will provide at least 30 days’ notice before the public hearings begin. Parties who receive post-hearing questions will be given at least 14 days to respond. The precise dates for these future aspects of the proceeding will be provided in subsequent Federal Register notices.


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Supplementary Information:

I. Background

Over the past several years, the Copyright Office has sought public input on technological upgrades to the recordation function. See 79 FR 17722 (Mar. 22, 2013); 79 FR 2696 (Jan. 15, 2014). In addition to seeking written comments, the Office has held focused discussions with copyright owners, users of copyright records, technical experts, public interest organizations, lawyers, and professional and industry associations regarding the same. See 79 FR 6636 (Feb. 4, 2014). Participants in these processes have expressed a number of concerns about the current recordation system, including frustration with the submission process, the amount of time the Office requires to record remitted documents, and the searchability of the public record. These problems are related in part to the fact that recordation remains a paper-driven process (in contrast to most registration transactions, which occur electronically).1

To date, recordation specialists have had to review paper documents and manually transcribe selected information from the documents into an electronic format in order to permit indexing in the Office’s online Public Catalog. Among the information that must be transcribed are the titles of copyrighted works associated with a document submitted for recordation, which are typically presented in a list appended to the document, referred to informally as a “title appendix.” A title appendix associated with a document can include hundreds, or even thousands, of titles. The Office attributes the long processing times associated with document recordation in considerable part to the manual entry of these titles. In an effort to reduce processing time for recorded document submissions, on July 16, 2014, the

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1 For further information, see the comments obtained during the Copyright Office’s two-year Special Projects process, particularly the Special Project on Technical Upgrades to Registration and Recordation Functions. Comments pertaining to the Special Project on Technological Upgrades to Registration and Recordation Functions are available on the Copyright Office Web site at http://www.copyright.gov/updates/comments/
Office proposed a new rule that would, among other things, allow remitters to submit electronic title appendices containing 100 or more titles in electronic format. See 79 FR 41470 (July 16, 2014).

The Recording Industry Association of America, Inc., (“RIAA”) commented on the proposed rule, stating, among other things, that the Office should “provide for a mechanism or procedure by which a remitter can easily correct any errors to the electronic title list that the remitter has supplied.” 2 The Office agreed, and has adopted such a procedure as part of the final electronic title list rule, to be codified at 37 CFR 201.4(c)(4)(v). See the final rule entitled “Changes to Recordation Practices” published elsewhere in this issue of the Federal Register. Under the new § 201.4(c)(4)(v), if a remitter discovers that an error in an electronic title list has led to the inaccurate cataloging of a recorded document, it may submit a corrected title list to the Copyright Office in accordance with the procedures set forth in the rule. However, to avoid delay in implementing the electronic title list option, the Office decided to issue that final rule without imposition of a fee for corrections until such time as a fee is set in accordance with this separate notice. 3

II. Discussion

Section 708(a) of title 17 authorizes the Register to fix fees for services other than those enumerated in paragraphs (1)–(9) of section 708(a) based on cost and without prior submission to Congress.4 See 17 U.S.C. 708(a). Fees for Office services that the Register has the discretion to establish based on cost and without Congressional review include fees for copying Office records, fees for mail and delivery services, and fees for special handling. See 79 FR 15910, 15916–17 (Mar. 24, 2014). With the rule proposed herein, the Office seeks to adopt a new fee to recover costs associated with the correction of errors in the online Public Catalog following recordation of a document where the errors stem from a remitter’s inaccurate electronic title list.

Based on a cost analysis, the Office believes that the initial fee for this service should be established at seven dollars per corrected title. The Office arrived at the seven dollar amount by considering the various personnel and systems costs associated with providing the new service. To process a corrected title list, senior recordation staff must first review the nature and extent of corrections, and the Office’s accounting staff must process the payment associated with the submission. Then, the corrections must be individually transcribed into the Office’s online Public Catalog; this is a labor-intensive process that involves searching for the original entry by volume and document number, finding the title or titles that require correction, and amending and/or adding new titles to the database. Once entered into the online Public Catalog, the resulting changes must be checked to ensure the correction process was successful.

After evaluating the anticipated personnel and overhead expenses that will be incurred to accomplish the above tasks, the Office estimates the average cost to be seven dollars per corrected title. The Office therefore proposes to establish the new fee at that amount.

List of Subjects in 37 CFR Part 201

Copyright.

Proposed Regulations

For the reasons set forth in the preamble, the Copyright Office proposes amending 37 CFR part 201 as follows:

PART 201—GENERAL PROVISIONS

§ 201.3 Fees for registration, recordation, and related services, special services, and services performed by the Licensing Division.

<table>
<thead>
<tr>
<th>Registration, recordation and related services</th>
<th>Fees ($)</th>
</tr>
</thead>
<tbody>
<tr>
<td>*(16) Recordation of document, including a notice of intention to enforce (single title)</td>
<td>105</td>
</tr>
<tr>
<td>Additional titles (per group of 1 to 10 titles)</td>
<td>35</td>
</tr>
<tr>
<td>Correction of online Public Catalog data due to erroneous electronic title submission (per title)</td>
<td>7</td>
</tr>
</tbody>
</table>

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3 There are already fees in effect for the recordation of the document and processing of associated titles. See 37 CFR 201.3(c)(16).

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