

§ 201.39 Notice to Libraries and Archives of Normal Commercial Exploitation or Availability at Reasonable Price.

(a) *General.* This section prescribes rules under which copyright owners or their agents may provide notice to qualified libraries and archives (including a nonprofit educational institution that functions as such) that a published work in its last 20 years of copyright protection is subject to normal commercial exploitation, or that a copy or phonorecord of the work can be obtained at a reasonable price, for purposes of section 108(h)(2) of title 17 of the United States Code.

(b) *Format.* The Copyright Office provides a required format for a Notice to Libraries and Archives of Normal Commercial Exploitation or Availability at Reasonable Price, and for continuation sheets for group notices. The required format is set out in Appendix A to this section, and is available from the Copyright Office website (<http://lcweb.loc.gov/copyright>). The Copyright Office does not provide printed forms. The Notice shall be in English (except for an original title, which may be in another language), typed or printed legibly in dark ink, and shall be provided on 8½×11 inch white paper with a one-inch margin.

(c) *Required content.* A “Notice to Libraries and Archives of Normal Commercial Exploitation or Availability at Reasonable Price” shall be identified as such by prominent caption or heading, and shall include the following:

(1) The acronym NLA in capital, and preferably bold, letters in the top right-hand corner of the page;

(2) A check-box just below the acronym NLA indicating whether continuation sheets for additional works are attached;

(3) The title of the work, or if untitled, a brief description of the work;

(4) The author(s) of the work;

(5) The type of work (e.g., music, motion picture, book, photograph, illustration, map, article in a periodical, painting, sculpture, sound recording, etc.);

(6) The edition, if any (e.g., first edition, second edition, teacher’s edition) or version, if any (e.g., orchestral arrangement, translation, French

version). If there is no information relating to the edition or version of the work, the notice should so state;

(7) The year of first publication;

(8) The year the work first secured federal copyright through publication with notice or registration as an unpublished work;

(9) The copyright renewal registration number (except this information is not required for foreign works in which copyright is restored pursuant to 17 U.S.C. 104A);

(10) The name of the copyright owner (or the owner of exclusive rights);

(11) If the copyright owner is not the owner of all rights, a specification of the rights owned (e.g., the right to reproduce/distribute/publicly display/publicly perform the work or to prepare a derivative work);

(12) The name, address, telephone number, fax number (if any) and e-mail address (if any) of the person or entity that the Copyright Office should contact concerning the Notice;

(13) The full legal name, address, telephone number, fax number (if any) and e-mail address (if any) of the person or entity that Libraries and Archives may contact concerning the work’s normal commercial exploitation or availability at reasonable price; and

(14) A declaration made under penalty of perjury that the work identified is subject to normal commercial exploitation, or that a copy or phonorecord of the work is available at a reasonable price.

(d) *Additional content.* A Notice to Libraries and Archives of Normal Commercial Exploitation or Availability at Reasonable Price may include the following:

(1) The original copyright registration number of the work; and

(2) Additional information concerning the work’s normal commercial exploitation or availability at a reasonable price.

(e) *Signature.* The Notice to Libraries and Archives of Normal Commercial Exploitation or Availability at Reasonable Price shall include the signature of the copyright owner or its agent. The signature shall be accompanied by the printed or typewritten name and

title of the person signing the Notice, and by the date of signature.

(f) *Multiple works.* A Notice to Libraries and Archives may be filed for more than one work. The first work shall be identified using the format required for all Notices to Libraries and Archives. Each additional work in the group must be identified on a separate continuation sheet. The required format for the continuation sheet is set out in Appendix B to this section, and is available from the Copyright Office website (<http://lcweb.loc.gov/copyright>). A group filing is permitted provided that:

- (1) All the works are by the same author;
- (2) All the works are owned by the same copyright owner or owner of the exclusive rights therein. If the claimant is not owner of all rights, the claimant must own the same rights with respect to all works in the group;
- (3) All the works first secured federal copyright in the same year, through either publication with notice or registration as unpublished works;
- (4) All the works were first published in the same year;
- (5) The person or entity that the Copyright Office should contact concerning the Notice is the same for all the works; and
- (6) The person or entity that Libraries and Archives may contact concerning the work's normal commercial exploitation or availability at reasonable price is the same for all the works.

(g) *Filing—(1) Method of filing.* The Notice to Libraries and Archives of Normal Commercial Exploitation or Availability at Reasonable Price should be addressed to: NLA, Library of Congress, Copyright Office, 101 Independence Avenue, SE., Washington, DC 20559-6000. If delivered by hand, it should be delivered during normal business hours, 8:30 a.m. to 5:00 p.m., to the Public Information Office, Room LM-401, James Madison Memorial Building, Library of Congress, 101 Independence Avenue, SE., Washington, DC.

(2) *Amount.* Each Notice shall be accompanied by a filing fee of \$50, and (if more than one work is identified in the Notice), \$20 for each additional work.

(3) *Method of payment—(i) Checks, money orders, or bank drafts.* The Copy-

right Office will accept checks, money orders, or bank drafts made payable to the Register of Copyrights. Remittances must be redeemable without service or exchange fees through a United States institution, must be payable in United States dollars, and must be imprinted with American Banking Association routing numbers. Postal money orders that are negotiable only at a post office and international money orders are not acceptable. CURRENCY IS NOT ACCEPTED.

(ii) *Copyright Office Deposit Account.* The Copyright Office maintains a system of Deposit Accounts for the convenience of those who frequently use its services. The system allows an individual or firm to establish a Deposit Account in the Copyright Office and to make advance deposits into that account. Deposit Account holders can charge copyright fees against the balance in their accounts instead of sending separate remittances with each request for service. For information on Deposit Accounts, visit the Copyright Office website or write: Copyright Office, Library of Congress, Washington, DC 20559-6000, and request a copy of Circular 5, "How to Open and Maintain a Deposit Account in the Copyright Office."

APPENDIX A TO § 201.39—REQUIRED FORMAT OF NOTICE TO LIBRARIES AND ARCHIVES OF NORMAL COMMERCIAL EXPLOITATION OR AVAILABILITY AT REASONABLE PRICE

NLA

Check box if continuation sheets for additional works are attached.

Notice to Libraries and Archives of Normal Commercial Exploitation or Availability at Reasonable Price

1. Title of the work (or, if untitled, a brief description of the work): _____.
2. Author(s) of the work: _____.
3. Type of work (e.g. music, motion picture, book, photograph, illustration, map, article in a periodical, painting, sculpture, sound recording, etc.): _____.
4. Edition, if any (e.g., first edition, second edition, teacher's edition) or version, if any (e.g., orchestral arrangement, English translation of French text). If there is no information available relating to the edition or version of the work, the Notice should state, "No information available": _____.
5. Year of first publication: _____.

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6. Year the work first secured federal copy-right through publication with notice or reg-istration as an unpublished work: _____.

7. Copyright renewal registration number (not required for foreign works restored under 17 U.S.C. 104A): _____.

8. Full legal name of the copyright owner (or the owner of exclusive rights): _____.

9. The person or entity identified in space #8 owns:

- all rights.
 the following rights (e.g., the right to re-produce/distribute/publicly display/pub-licly perform the work or to prepare a derivative work): _____.

10. Person or entity that the Copyright Of-fice should contact concerning the Notice:

- Name: _____
 Address: _____
 Telephone: _____
 Fax number (if any): _____
 E-mail address (if any): _____

11. Person or entity that libraries and ar-chives may contact concerning the work's normal commercial exploitation or avail-ability at a reasonable price:

- Name: _____
 Address: _____
 Telephone: _____
 Fax number (if any): _____
 E-mail address (if any): _____

Additional Content (OPTIONAL):

12. Original copyright registration number: _____

13. Additional information concerning the work's normal commercial exploitation or availability at a reasonable price: _____

Declaration:

I declare under penalty of perjury under the laws of the United States:

- that each work identified in this notice is subject to normal commercial exploi-tation.
 that a copy or phonorecord of each work identified in this notice is available at a reasonable price.

Signature: _____

Date: _____

Typed or printed name: _____

Title: _____

APPENDIX B TO § 201.39—REQUIRED FORMAT FOR CONTINUATION SHEET

NLA CON Page ___ of ___ Pages.

Continuation Sheet for NLA Notice to Li-braries and Archives of Normal Commer-cial Exploitation or Availability at Rea-sonable Price

1. Title of the work (or, if untitled, a brief description of the work): _____.

2. Type of work (e.g. music, motion pic-ture, book, photograph, illustration, map, article in a periodical, painting, sculpture, sound recording, etc.): _____.

3. Edition, if any (e.g., first edition, second edition, teacher's edition) or version, if any (e.g., orchestral arrangement, English trans-lation of French text). If there is no informa-tion available relating to the edition or version of the work, the Notice should state, "No information available": _____.

4. Copyright renewal registration number (not required for foreign works restored under 17 U.S.C. 104A): _____.

Additional Content (OPTIONAL):

5. Original copyright registration number: _____

6. Additional information concerning the work's normal commercial exploitation or availability at a reasonable price: _____

[63 FR 71787, Dec. 30, 1998, as amended at 66 FR 34373, June 28, 2001]

§ 201.40 Exemption to prohibition against circumvention.

(a) General. This section prescribes the classes of copyrighted works for which the Librarian of Congress has de-termined, pursuant to 17 U.S.C. 1201(a)(1)(C) and (D), that noninfringing uses by persons who are users of such works are, or are likely to be, ad-versely affected. The prohibition against circumvention of technological measures that control access to copy-righted works set forth in 17 U.S.C. 1201(a)(1)(A) shall not apply to such users of the prescribed classes of copy-righted works.

(b) Classes of copyrighted works. Pur-suant to the authority set forth in 17 U.S.C. 1201(a)(1)(C) and (D), and upon the recommendation of the Register of copyrights, the Librarian has deter-mined that two classes of copyrighted works shall be subject to the exemp-tion found in 17 U.S.C. 1201(a)(1)(B) from the prohibition against cir-cumvention of technological measures that effectively control access to copy-righted works set forth in 17 U.S.C. 1201(a)(1)(A) for the period from October 28, 2000 to October 28, 2003. The exempt-ed classes of works are:

- (1) Compilations consisting of lists of websites blocked by filtering software applications; and