#### A. Format for NIEs

#### 1. Constructive Notice

The Copyright Office will not publish NIE forms; however, a suggested format for NIEs to be filed with the Office is included in the Appendix below. This format is available over the Internet and can be downloaded for use as a form. The suggested format requests information required by the statute and optional information which is extremely useful.

## 2. Actual Notice

Those parties choosing to serve actual Notice of Intent to Enforce a Restored Copyright on the reliance party should note that the URAA requires additional information. Therefore, if they use the Copyright Office's NIE format as a guide for the actual notice, it will be incomplete unless the additional information specified is added. The URAA specifies:

Notices of Intent to Enforce a Restored Copyright served on a reliance party shall be signed by the owner or the owner's agent, shall identify the restored work and the work in which the restored work is used, if any, in detail sufficient to identify them, include an English translation of the title, any other alternative titles known to the owner by which the work may be identified, the use or uses to which the owner objects, and an address and telephone number at which the reliance party may contact the owner. If the notice is signed by an agent, the agency relationship must have been constituted in writing and signed by the owner before service of the notice.8

104A(e)(2)(B) of the URAA. Actual notices may be served on a reliance party at any time after the work is restored.

# 3. Who may file a Notice of Intent To Enforce?

A NIE may be filed by someone who has the authority to sign it. The statute says that the NIE must be signed by the owner or the owner's agent. It can also be signed by the owner of any exclusive right in the restored copyright. As noted in the URAA and emphasized in the certification requirement, an agent cannot sign a NIE unless the agency relationship was constituted in writing signed by the owner before the notice is filed. 104A(e)(1)(A)(i) of the URAA.

# B. Filing Fee

The filing fee is 30 U. S. dollars <sup>9</sup> for a NIE covering one work; for a NIE covering multiple works the fee is \$30

for the first work, plus one dollar for each additional work. This fee includes the cost of an acknowledgement of recordation which will be mailed to the filer after the Copyright Office records the NIE. The regulations provide special instructions for payment of the filing fee, including payment by credit card. These instructions must be followed in order to permit processing of the fee. In addition, the filer of a NIE must insure that sufficient funds are available for payment. Insufficient fees could delay the effective date of notice.

For all URAA filings, both recordation of a NIE and registration of a restored work, the Copyright Office will accept Visa, Master Card and American Express credit cards to facilitate payment in U.S. dollars. Payment by credit card is, however, available only for URAA filings. 10

## C. Certification

The Office requires the filer of a NIE to sign a certification statement at the end of the document filed indicating that the information given is correct to the best of his or her knowledge. The URAA explicitly states that any materially false statement knowingly made with respect to any restored copyright identified in any Notice of Intent shall make void all claims and assertions made with respect to such restored copyright. 104A(e)(3) of the URAA.

## D. Mailing Address

Time is critical with processing NIEs, and it is, therefore, important that URAA mail not come in with regular Copyright Office mail. All NIEs should be mailed to: URAA/GATT, NIEs and Registrations, P.O. Box 72400, Southwest Station, Washington, D.C. 20024, USA.

## V. Procedures for Registering Copyright Claims in Restored Works

The URAA raises a number of unique considerations regarding the registration of copyright claims in restored works. First, a number of technical requirements, many of which are contained in the definition of "restored work," govern whether a foreign work is subject to automatic restoration under the URAA. In many cases applicants seeking registration will be foreign claimants who are unfamiliar with the registration procedures in the United States Copyright Office. In addition, communication over technical issues

may be difficult. Finally, virtually all of the restored copyrights will be older works; and in some cases, submitting a copy or phonorecord of the work will be a problem.

The Copyright Office weighed all of these considerations before developing a procedure for registering copyright claims in restored works. The Office has adopted a simplified procedure, which will still maintain the integrity of the public record and adhere to the provisions of the existing copyright law and the URAA.

The Office will register a claim to United States copyright in any work for which copyright protection is restored by the URAA, even if a registration was previously made before the work entered the public domain in this country. The Office will also register a claim for any work previously registered where the Office originally advised the copyright claimant that there was some doubt concerning compliance with the formal requirements of the law.

## A. Registration Forms

Because the URAA creates unique eligibility requirements, the Copyright Office concluded that it should create two new registration forms and a continuation page specifically designed to obtain the information necessary for a GATT registration made under the URAA. They are Form GATT, Form GATT/GRP and Form GATT/CON. The Form GATT covers registration of individual restored works and restored works published under a single series title, Form GATT/GRP covers registration of groups of related restored works under the conditions set forth in the regulations, and the Form GATT/ CON is a page providing additional space and may be used with either of the GATT application forms.

## B. Deposit Required

In recognition of the difficulty some applicants may have in submitting a deposit of an older work "as first published," the Office has established special deposit regulations for URAA restored works. These regulations permit a deposit of other than the first published edition of the work, if absolutely necessary; applicants should keep in mind, however, that the deposit serves as a crucial part of the public record, and it is their interest to make a complete deposit.

## C. Filing Fee

The filing fee for registration is \$20, since the Copyright Office believes the work in administering the registration procedure for restored works will be roughly comparable to general

<sup>&</sup>lt;sup>8</sup>Emphasis added to show additional requirements for actual notice.

<sup>&</sup>lt;sup>9</sup> All references to charges will be in terms of U.S.

<sup>&</sup>lt;sup>10</sup> Acceptance of credit cards for URAA filings will serve as a test, however, by which the Office can determine at a later date the feasibility of accepting credit cards for other registrations and recorded to the contract of the contract of the cards for other registrations.