

hear their problems and to respond to them whenever possible." Library of Congress, Advisory Committee on Copyright Registration and Deposit 31 (1993).

For the past year the Office has met with photographers and their representatives who have urged that the nature of photography, where thousands of images may be created with only a few, if any, being published makes registration difficult. At the time registration may be sought, the photographer does not know which photographs, if any, will be published. The definition of publication was also cited as problematic; in many cases it is unclear whether a photograph has been published. Even when it is clear that a photograph has been published, the photographer may be unaware of the publication. Finally, photographers and their representatives noted that often the film is turned over to the photographer's client for processing and use, thus leaving the photographer with nothing to deposit with the Copyright Office.

Photographs are generally copyrightable; an individual selects a camera, lens, film, and an image to capture taking into consideration choices such as lighting and composition. Since photographs are usually entirely new works, for examination purposes there is no issue with respect to whether or not a photograph is copyrightable. Therefore, it is possible to consider registration without an actual deposit of the work. Moreover, in the past the Library of Congress has not relied on the copyright registration system as a source for its photography collections. This is not the case with works such as music, motion pictures, plays, poems, choreography or novels. If the Library depended on the copyright deposits for its photograph collections, the Copyright Office would not be able to consider registration without a deposit of a copy of the work. In proposing this regulation, the Office is not waiving the Library's rights to receive photographs that are registered. The Library may select from five to ten photographs from each registered group of photographs.

Recognizing the difficulties that photographers face in registering their works and desiring to ameliorate these problems, the Office is seeking a workable solution for photographers which does not cause unforeseen problems for publishers, photofinishers and other users of photographs. To this end, under the authority granted in 17 U.S.C. 408(c)(1), the Office is proposing regulations that permit a single registration for a group of unpublished and published related works and also

permit registration with identifying material in place of actual photographs.

We believe that those who use photographs should not be adversely affected. The Office already will register a claim in an unlimited number of photographs as an unpublished collection; that collection would bear only a collective title, and the deposit would consist of contact sheets or a videotape. There would be no individual identifiers for individual images contained in the collection.

Guidelines for Group Registration of Photographs

The proposed regulations permit group registration of unpublished and published photographs on a single application with a fee of \$40, and a deposit of identifying material, if certain conditions are met. The conditions are that the photographs must be by a single author, be owned by the same copyright claimant (who need not be the author), be created on or after March 1, 1989, be created during a single calendar year, and bear a title which identifies the group as a whole. Published works whose exact date of publication is known may be included in a collection as long as the dates of publication do not exceed a three month period. For example, in one collection a photographer may include both unpublished photographs created in 1995, and photographs that are known to have been published between March 1, 1995, and May 31, 1995.

The approximate number of photographs in the group must be indicated on the application and in the identifying material; where the collection contains clearly published works, the approximate number of such photographs must be included in the identifying material. Where a group contains both unpublished and published photographs, the Copyright Office will assign a registration number, VAu (for unpublished works) or VA (for published works) based on the preponderant status of the photographs as indicated in the identifying material.

Identifying Material

The identifying material must contain the following information: name of the author; the name and address of the claimant; the title given to the group as a whole; the approximate number of photographs included in the group, and, if the group includes photographs known to be published, an approximate number of the works that have been published. It must also contain the range of dates (month, year) during which the photographs were created (taken)—i.e., the earliest and the latest;

the range of dates of first publication (month, day, year) for those photographs that have been published; a general description of the subject matter captured by the photographs; where more than one subject is included, a general description of each, with particular emphasis on newsworthy subjects, e.g., bombing of Federal Building in Oklahoma City, April 1995; ghost towns of Arizona; Million Man March in Washington, D.C., October 1995. The identifying material must include the name of the person to contact about using the work if that information is not already given.

It may also contain any additional identifiers, such as an identification coding that is used to administer rights. Since the deposit will not be a copy of each photograph and a question could arise as to whether or not a particular photograph has been registered, it is in the claimant's best interest to include as much information as possible to describe the photographs covered by the registration.

Other Group Registration Possibilities

The Office already permits or requires a single registration for a number of works. These include the following: contributions to periodicals by the same author who is an individual (not an employee for hire) which are published in a twelve month period. For this, a basic application, for example Form VA for photographs, must be submitted with an adjunct application, Form GR/CP. All component parts of a multipart work that are owned by the same claimant and that are part of the unit of publication should be registered together on a single application. A single registration may be made for all categories of unpublished works as unpublished collections if certain conditions are met. The deposit must contain the entire copyrightable content of each work included in the collection. 37 CFR 202.20

Separate Registration for an Individual Photograph

Individual photographs may be separately registered. To make a separate registration for an individual photograph, an applicant should submit a Form VA, a fee of \$20, and a copy of the photograph which complies with the existing deposit requirements found at 37 CFR 202.20.

Selection of Archival Prints for the Collections for the Library of Congress

One of the conditions of this proposed group registration procedure is that the Library of Congress be able to select between five to ten photographs from