PART II

ADMINISTRATIVE DEVELOPMENTS

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37 C.F.R. Part 382. Copyright Royalty Judges Announce Technical Amendment to Rates and Terms for Digital Transmission of Sound Recordings and Making of Ephemeral Recordings by Preexisting Subscription and Satellite Digital Audio Radio Services for Period from January 1, 2013, Through December 31, 2017. 78 Fed. Reg. 23,054-100. The Copyright Royalty Judges have announced a technical amendment to their final determination of the rates and terms for the digital transmission of sound recordings and the reproduction of ephemeral recordings by preexisting subscription services and preexisting satellite digital audio radio services for the period beginning on January 1, 2013, and ending on December 31, 2017. The amendment addresses an error identified by the Register of Copyrights regarding the judges’ application of policy factors in section 801(b) of the copyright law for setting rates for preexisting subscription services. All other portions of the final determination, including the rates and terms, are unchanged.

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37 C.F.R. Part 385. Office Issues Final Order on Scope of Register’s Exclusive Authority over Statements of Account under the Section 115 Compulsory License. 78 Fed. Reg. 28,770-73. Acting pursuant to statute, the Copyright Royalty Judges referred material questions of substantive law to the Register of Copyrights concerning the scope of the Register of Copyrights’ exclusive authority over statements of account under the section 115 compulsory license. Specifically, the Copyright Royalty Board requested a decision by the Register of Copyrights regarding “whether the detail requirements set forth in 37 CFR as proposed section 385.12(e) (existing) and proposed section 385.22(d) (new) as well as the confidentiality requirement proposed for sections 385.12(f) and 385.22(e) encroach upon the exclusive statutory domain of the Register under section 115 of the Act.” The Register of Copyrights responded in a timely fashion by delivering a Memorandum Opinion to the Copyright Royalty Board on May 1, 2013. To provide the public with notice of the decision rendered by the Register, the Memorandum Opinion is reproduced in its entirety in the Federal Register announcement.
Copyright Office Requests Comment on Authentication of Electronic Signatures on Electronically Filed Statements of Account. The U.S. Copyright Office is reengineering certain processes in its Licensing Division to enable cable systems operating under the statutory license governing the secondary transmission of over-the-air television broadcast signals to file Statements of Account electronically. As part of that process, the Office plans to adopt an identity authentication process that will allow for the use of electronic signatures. The Office proposes revisions to specific rules to account for the changes associated with the implementation of an electronic Statement of Account filing system and seeks public comment on the proposed process and regulatory changes to accommodate the use of electronic signatures. Comments were due July 26, 2013. All comments and reply comments had to be submitted electronically. A comment page containing a comment form is posted on the Copyright Office Web site at http://www.copyright.gov/docs/digsig.

WIPO Treaty Adopted to Facilitate Access for the Blind, Visually Impaired, and Print Disabled. Member States of the World Intellectual Property Organization (WIPO) formally adopted the Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired, or Otherwise Print Disabled. The Treaty, which marks the culmination of years of multilateral discussions and negotiations, addresses both the domestic and cross border exchange of printed materials in accessible formats. It will come into force upon ratification by twenty eligible parties. More than 600 negotiators from WIPO’s 186 member states worked to finalize the Treaty’s language and agreed statements during the Diplomatic Conference that began on June 18 in Marrakesh, Morocco. Text of the Marrakesh Treaty to Facilitate Access to Published Works for Persons who are Blind, Visually Impaired, or otherwise Print

Jacqueline C. Charlesworth Appointed General Counsel and Associate Register of Copyrights. Register of Copyrights Maria A. Pallante announced today that she has appointed Jacqueline C. Charlesworth as General Counsel of the U.S. Copyright Office and Associate Register of Copyrights. Charlesworth most recently served as Senior Counsel to the Register, advising the Register on a broad range of legal and policy matters affecting the Copyright Office and the national copyright system, including litigation, rulemakings and a congressionally directed study regarding small copyright claims.
Charlesworth joined the Copyright Office in 2012 following several years of private practice at New York City law firms, including Morrison & Foerster LLP, where she represented copyright owners and users of copyrighted works in litigation, regulatory, and transactional matters. From 2006 to 2008, Charlesworth served as Senior Vice President and General Counsel of the National Music Publishers’ Association and from 2001 to 2006 was General Counsel of The Harry Fox Agency, Inc., the leading agency in the United States for the licensing of mechanical rights in musical works.

Charlesworth holds a B.A. in American Civilization from Brown University and a J.D. from Yale Law School, where she served as an executive committee editor of The Yale Law Journal. Following law school, Charlesworth clerked for the Honorable Miriam Goldman Cedarbaum of the U.S. District Court for the Southern District of New York and the Honorable Betty B. Fletcher of the U.S. Court of Appeals for the Ninth Circuit.

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Register of Copyrights Delivers Memorandum Opinion to Copyright Royalty Board. The Copyright Royalty Judges, acting pursuant to 17 U.S.C. § 802(f)(1)(B), referred a novel material question of substantive law to the Register of Copyrights concerning the Copyright Royalty Judges’ authority to adopt regulations imposing a duty of confidentiality upon copyright owners, whether or not that duty is included in a voluntarily negotiated license agreement between copyright owners and licensees in a proceeding under section 115 of the Act. The Register of Copyrights responded in a timely fashion by delivering a memorandum opinion to the Copyright Royalty Board on July 25, 2013. The full text of the final order is at 78 Federal Register 47,421-24 (Aug. 5, 2013), available at http://www.copyright.gov/fedreg/2013/78fr47421.pdf.