



# U.S. Copyright Office Recordation System: **Rules for Electronic Recordation in the Expanded Pilot**

**July 2022:** Any member of the public may now participate in the expanded pilot program, allowing electronic recordation, by establishing an account in the online Recordation System.

This means that you may submit certain types of documents for recordation electronically through the new online system. The pilot program is governed by 37 C.F.R. § 201.4(h) and the below expanded special pilot program rules. Participation is optional; you may currently continue to submit documents for recordation in paper form. To the extent any pilot program rule conflicts with any other regulation, rule, instruction, or guidance issued by the Copyright Office, the pilot program rule will govern submissions made pursuant to the pilot program.

## **Expanded Special Pilot Program Rules: Special Pilot Program Rules:**

1. *General.* Except as may be otherwise provided herein, all requirements for recording a document with the Copyright Office must be satisfied (see **37 C.F.R. § 201.4**), including payment of appropriate fees (see **37 C.F.R. § 201.3(c)**).
2. *Pilot documents.*<sup>1</sup> The pilot program is limited to the recordation of certain transfers of copyright ownership and other documents pertaining to a copyright under 17 U.S.C. § 205. The following types of documents cannot be recorded as part of the pilot program:
  - a. Declarations of Ownership in Musical Works (see <https://www.copyright.gov/recordation/domw/>).
  - b. Documents listed in 37 C.F.R. § 201.4(b), including notices of termination (see **17 U.S.C. §§ 203, 304(c), 304(d)**; **37 C.F.R. § 201.10**).
  - c. Documents pertaining to mask works (see **37 C.F.R. § 211.2**).
  - d. Documents pertaining to the protection of vessel designs (see **37 C.F.R. § 212.6**).
  - e. Documents relating to the transfer of ownership of pre-1972 sound recordings (see **37 C.F.R. § 201.35(l)**).
3. *Electronic documents as copies.* All documents submitted through the electronic submission process described in paragraph 4 are considered to be copies of the original, signed document, and must be accompanied by a sworn certification or an official certification (see **37 C.F.R. § 201.4(d)(1)**).
4. *Electronic submission.* As permitted by 37 C.F.R. § 201.4(h) and these special pilot program rules, pilot remitters may submit documents for recordation electronically through the Copyright Office's online system. Pilot remitters must follow all instructions provided by the Office for use of the electronic recordation system, including by providing all indexing information and making all certifications required by the Copyright Office. A pilot remitter using the electronic system must upload a true and correct electronic copy of the document in the format required by the system, provide all of the information and certifications required by the system, and pay the required fee.

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<sup>1</sup> Note that the online Recordation System now permits recordation of documents containing redactions, non-English documents, and documents containing any non-English indexing information (e.g., title names, party names, addresses, and author names).

5. *Proof of signature.* As required by 37 C.F.R. § 201.4(d)(1), where an actual signature for the relevant document is not a handwritten or typewritten name, such as when an individual clicks a button on a website or application to indicate agreement to contractual terms, the pilot remitter must submit a description of the nature of the signature and documentation evidencing the existence of the signature (e.g., a database entry or confirmation email showing that a particular user agreed to the terms by clicking “yes” on a particular date). In such cases, the required description and documentation must be uploaded to the Office’s recordation system as part of the document in the same file.
6. *Indexing information.* No submitted indexing information will be considered part of the recorded document, but will be used by the Office for examination, indexing, and other administrative purposes. Pilot remitters need not index all works to which a document pertains, but bear the consequences of any such omission. For example, a pilot remitter may wish to only index five of ten works identified in a document, but the statutory benefits of recordation will not attach with respect to the works that are not indexed. A pilot remitter may index additional information about works identified in the document, such as registration numbers, document numbers for related recorded documents, author names, and standard identification codes, even if such information is not contained in the document. However, works that are not identified in the document may not be submitted.
7. *Dual submissions.* No submission may be made both electronically and in paper form unless approved by the Copyright Office.
8. *Corrections, amplifications, and withdrawals.* Pilot remitters may correct, amplify, or withdraw their submissions in accordance with this paragraph.
  - a. *Definitions.*
    - i. A “correction” addresses an error in a submission, and, subject to paragraph 8.b., may include the document (including proof of signature under paragraph 5), document certifications, and indexing information.
    - ii. An “amplification” adds indexing information to a submission that was not included in the initial submission and is not contained in the document, such as registration numbers, document numbers for related recorded documents, author names, or standard identification codes. An amplification may not include works that are not identified in the document.
  - b. *Scenarios.*
    - i. *Before examination.* After submission to the Office but before examination, a submission may be corrected, amplified, or withdrawn. A complete withdrawal of the submission may be made for any reason and need not be approved by the Office. Material may be added to, removed from, or replaced in the submission in compliance with system requirements and instructions. Any correction or amplification of indexing information will not affect the applicable date of recordation for the submission unless the change affects the filing fee, in which case the date of recordation will be the date when the additional filing fee is received by the Office. Changes to the document itself to be recorded, proof of signature, or document certifications will change the date of recordation to the date that the most recent change is received by the Office.
    - ii. *During examination.* During examination of a submission by the Office, it may be corrected, amplified, or withdrawn. A correction requested by the Copyright Office as part of its examination of a submission is also governed by this paragraph. A complete withdrawal of the submission may be made for any reason and need not be approved by the Office. Material may be added to, removed from, or replaced in the submission in compliance with system requirements and instructions, except that no change may be made to the document itself to be recorded or the proof of signature.

Any correction or amplification of indexing information will not affect the applicable date of recordation for the submission unless the change affects the filing fee, in which case the date of recordation will be the date when the additional filing fee is received by the Office. Changes to the document certifications will change the date of recordation to the date that the most recent change is received by the Office.

- iii. *After recordation.* After a document is recorded by the Office, it may be corrected or amplified at any time, but may not be wholly withdrawn. Material may be added, removed, or replaced in compliance with system requirements and instructions by making a new submission that will supplement and be connected to the official catalog record for the initial filing. Such a submission will have its own date of recordation assigned to it separate from the date of recordation assigned to the initial filing, which will not change. Except where a pilot remitter seeks to replace the recorded document or indexing information because the document or indexing information inadvertently contain business or personal sensitive information, no material in the official catalog record for the initial filing will be changed by a later submission; the initial record will co-exist and be connected to any supplemental record containing corrected or amplified information.
  - c. *Users.* Only the user of the system account having ownership of a submission may correct, amplify, or withdraw that submission, provided that such account is either the account from which the submission was made or an account belonging to the same organization as that account.
  - d. *Date of recordation.* Any change to the date of recordation contemplated by paragraphs 8.b.i. or 8.b.ii. is subject to 37 C.F.R. § 201.4(h)(5).
  - e. *Fees.* Although the Office intends to establish a fee to make corrections and amplifications, there is currently no fee for most changes. Where a correction or amplification made pursuant to paragraph 8.b.iii includes the submission of a corrected version of a recorded document—as distinguished from a correction or amplification solely involving indexing information—a fee equal to the base fee specified in 37 C.F.R. § 201.3(c) shall be incurred. In addition, if a correction or amplification made pursuant to paragraph 8.b. increases the filing fee, such additional amount must be paid pursuant to paragraph 9. For example, where additional works are indexed such that the submission moves into a higher fee tier than when it was initially submitted.
9. *Payments and refunds.* Payments and refunds are governed by 37 C.F.R. § 201.6, subject to the following exceptions:
- a. Payment should be made through the system by using either Pay.gov or a Copyright Office deposit account.<sup>2</sup> If payment cannot be made through the system due to an issue with the system, payment may be made by other means upon approval of the Copyright Office.
  - b. Where a submission is withdrawn within 7 calendar days after being submitted and before examination begins, the full filing fee will be refunded.
  - c. Where a submission is withdrawn more than 7 calendar days after being submitted, or after examination begins, no refund will be given.
  - d. Where a correction is made before the document is recorded, and the correction would have reduced the filing fee if it had been made prior to submission to the Office, the difference between the fee paid and the lower fee that would have been owed will be refunded in full.

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<sup>2</sup> Note that, at present, deposit accounts used for electronic recordation through the online system are different from those used for other Office services, including for registration applications and paper recordation submissions.

- e. Where recordation is refused, a partial refund will be issued in accordance with 37 C.F.R. § 201.6(c)(2).
  - f. For all refunds, amounts of \$50 or less will not be refunded unless specifically requested.
10. *Returning of document and certificate.* After recordation, the document will be returned electronically to the pilot remitter with a certificate of recordation. The returned document will bear its Copyright Office recordation document number. The document and certificate will not be mailed in paper form. Certified paper copies may be requested by contacting the Records Research and Certification Section pursuant to 37 C.F.R. § 201.2.