GRAND PARK LAW GROUP
A PROFESSIONAL CORPORATION

WESTSIDE TOWERS
11835 W. Olympic Boulevard #870E
Los Angeles, California 90064

O:+1 888.629.4754
F: +1 310.900.0805

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17 U.S.C. § 203 Termination of Transfer: Reclaiming Your Rights at 35 Years

Grand Park Law Group · November 7, 2026 · 7 min read



Section 203 of the Copyright Act lets an author or statutory heirs end a post-1977 grant during a window that opens 35 years after execution.

The Copyright Act lets an author, or certain heirs, end a transfer or license decades after signing it. The right cannot be waived by contract, but it is lost if the timing and notice rules are missed. This memorandum states those rules and recent appellate developments as of November 2026.

I. Question Presented

Under 17 U.S.C. § 203, when and how may an author terminate a copyright grant executed on or after January 1, 1978, what rights revert, and does termination recapture rights outside the United States?

II. Short Answer

Termination may take effect during a five-year window that opens 35 years after the grant is executed, or, for grants covering publication, at the earlier of 35 years from publication or 40 years from execution. Notice must be served two to ten years before the effective date and recorded with the Copyright Office before that date. Works made for hire are excluded. Derivative works prepared before termination may still be used under the grant's terms. In *Vetter v. Resnik* (5th Cir. Jan. 12, 2026), the Fifth Circuit held that a termination under the parallel provision, § 304(c), recaptured worldwide rights. On October 19, 2026, the Supreme Court, lacking a quorum, affirmed that judgment under 28 U.S.C. § 2109, which carries the effect of an affirmance by an equally divided court.

III. Governing Law

A. Scope of Section 203

Section 203 reaches "any work other than a work made for hire" and any "exclusive or nonexclusive grant of a transfer or license," executed by the author on or after January 1, 1978, "otherwise than by will." (17 U.S.C. § 203(a).) Three limits follow from that text. The grant must be the author's own. Testamentary transfers are excluded. And a work made for hire has no termination right at all.

B. Who May Terminate

A sole author may terminate. For a joint work, a majority of the authors who executed the grant must act. (§ 203(a)(1).) If an author has died, the termination interest passes by statute: to the surviving spouse alone if there are no children or grandchildren; otherwise one-half to the spouse and one-half to the children and the children of a deceased child, per stirpes. (§ 203(a)(2)(A)–(C).) If none survive, the executor, administrator, personal representative, or trustee holds the interest. (§ 203(a)(2)(D).) The owners of more than one-half of the author's interest may exercise it. (§ 203(a)(1).)

C. The Termination Window

Termination "may be effected at any time during a period of five years beginning at the end of thirty-five years from the date of execution of the grant." (§ 203(a)(3).) If the grant covers the right of publication, the period begins at the end of 35 years from publication or 40 years from execution, "whichever term ends earlier." (*Ibid.*) For grants executed in 1978, the earliest window opened in 2013. Grants from the early 1990s are now entering it.

D. Notice, Service, and Recordation

The notice must be in writing, signed by the required owners or their agents, and served on the grantee or its successor in title. (§ 203(a)(4).) It must state an effective date within the five-year window and be served "not less than two or more than ten years before that date." (§ 203(a)(4)(A).) A copy must be recorded in the Copyright Office before the effective date "as a condition to its taking effect." (*Ibid.*)

The regulations prescribe content. A section 203 notice must state that it is made under section 203; name each grantee or successor and each service address; give the date of execution and, if applicable, the date of publication; identify each work by title and author, with the registration number if practicable; briefly identify the grant; and state the effective date. (37 C.F.R. § 201.10(b)(2).) Information must appear in the notice itself, "without incorporation by reference." (§ 201.10(b)(3).) Service may be personal, by first-class mail or reputable courier to the last known address after reasonable investigation, or by specified electronic means. (§ 201.10(d)(1).) Harmless errors do not invalidate a notice. (§ 201.10(e)(1).)

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E. Effect of Termination

On the effective date, rights covered by the grant revert to the persons owning termination interests, including owners who did not sign. (§ 203(b).) Future rights vest when the notice is served. (§ 203(b)(2).) A further grant is valid only if made after the effective date, except that the terminating owners may agree with the original grantee after service of notice. (§ 203(b)(4).) Termination "may be effected notwithstanding any agreement to the contrary." (§ 203(a)(5).) Termination "in no way affects rights arising under any other Federal, State, or foreign laws." (§ 203(b)(5).)

IV. Analysis

A. The Derivative-Works Exception

A derivative work "prepared under authority of the grant before its termination may continue to be utilized under the terms of the grant after its termination." (§ 203(b)(1).) The privilege does not extend to new derivative works prepared after termination. (*Ibid.*) In *Mills Music, Inc. v. Snyder*, 469 U.S. 153 (1985), the Court construed the parallel language in § 304(c)(6)(A). Sound recordings licensed by a music publisher before termination were derivative works. *Id.* at 155–156, 158. The Court held that "[u]nder the terms of the grant in effect at the time of termination," the publisher remained entitled to its share of the royalties from those recordings. *Id.* at 178. A terminating author therefore recovers the right to license new uses, but pre-termination derivative works continue on their existing terms.

B. Section 304(c) and (d) Distinguished

Grants of the renewal copyright executed before 1978 are governed by § 304(c), not § 203. (17 U.S.C. § 304(c).) Section 304(d) gives a second opportunity, beginning 75 years after copyright was originally secured, to owners whose § 304(c) right expired unexercised before the Sonny Bono Copyright Term Extension Act took effect. (§ 304(d)(1)–(2).) The correct section must be identified in the notice. (37 C.F.R. § 201.10(b)(1)(i), (b)(2)(i).)

C. Worldwide Effect After Vetter v. Resnik

In *Vetter v. Resnik*, No. 25-30108 (5th Cir. Jan. 12, 2026), the songwriter had assigned worldwide rights to "Double Shot (Of My Baby's Love)" in 1963 and served a § 304(c) notice in 2019. The defendant argued that § 304(c)(6)(E), which matches § 203(b)(5), limited recapture to United States rights. The Fifth Circuit disagreed. It read "arise under this title" to refer to the source of the rights. Because the author's rights "arose under the U.S. Copyright Act," his termination was effective "as to all of his rights—including his copyright to the extent that it extends internationally." The court declined to follow decisions limiting recapture to domestic rights, including *Siegel v. Warner Bros. Entertainment Inc.*, 542 F. Supp. 2d 1098 (C.D. Cal. 2008).

A petition for certiorari was filed as *BMG Rights Management (US) LLC v. Vetter*, No. 25-1391. On October 19, 2026, four Justices took no part, and the Court affirmed under 28 U.S.C. § 2109. That statute directs affirmance "with the same effect as upon affirmance by an equally divided

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court." The Fifth Circuit decision therefore stands, but the Supreme Court has not decided the question. *Vetter* construed § 304(c). Section 203(b)(5) uses materially identical text, but we located no court of appeals decision applying *Vetter*'s reasoning under § 203.

V. Practical Considerations

- **Classify the work first.** A work made for hire cannot be terminated. Review the agreement and the facts of creation before calculating dates.
- **Calculate both dates.** For publication grants, compute 35 years from publication and 40 years from execution, and use the earlier.
- **Serve early, record on time.** Notice may be served up to ten years ahead, and must be served at least two years ahead. Recordation must precede the effective date.
- **Draft the notice to the regulation.** Include every element of 37 C.F.R. § 201.10(b)(2) in the notice itself.
- **Count the heirs.** Where the author has died, the notice must be signed by owners of more than one-half of the author's interest, and must list the statutory successors. (17 U.S.C. § 203(a)(1); 37 C.F.R. § 201.10(b)(2)(vii), (c)(3).)
- **Expect continued derivative-work income to the grantee.** Under *Mills Music*, existing derivative works continue on the grant's royalty terms.
- **Foreign rights remain contested outside the Fifth Circuit.** A grantee may rely on contrary district court authority elsewhere.

VI. Authorities Cited

- 17 U.S.C. § 203
- 17 U.S.C. § 304(c)–(d)
- 28 U.S.C. § 2109
- 37 C.F.R. § 201.10
- *Mills Music, Inc. v. Snyder*, 469 U.S. 153 (1985)
- *Vetter v. Resnik*, No. 25-30108 (5th Cir. Jan. 12, 2026), *aff'd under 28 U.S.C. § 2109 sub nom. BMG Rights Management (US) LLC v. Vetter*, No. 25-1391 (U.S. Oct. 19, 2026)
- *Siegel v. Warner Bros. Entertainment Inc.*, 542 F. Supp. 2d 1098 (C.D. Cal. 2008), as discussed in *Vetter*

Practice	Entertainment & Talent
Topics	Copyright · Termination of Transfer · Section 203 · Music Publishing
Publication	Entertainment & IP · November 7, 2026

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