

Copyright Basics

What Is Copyright?

Copyright is a form of protection provided by the laws of the United States (title 17, *U. S. Code*) to the authors of “original works of authorship,” including literary, dramatic, musical, artistic, and certain other intellectual works. This protection is available to both published and unpublished works. Section 106 of the 1976 Copyright Act generally gives the owner of copyright the exclusive right to do and to authorize others to do the following:

- reproduce the work in copies or phonorecords
- prepare derivative works based upon the work
- distribute copies or phonorecords of the work to the public by sale or other transfer of ownership, or by rental, lease, or lending
- perform the work publicly, in the case of literary, musical, dramatic, and choreographic works, pantomimes, and motion pictures and other audiovisual works
- display the work publicly, in the case of literary, musical, dramatic, and choreographic works, pantomimes, and pictorial, graphic, or sculptural works, including the individual images of a motion picture or other audiovisual work
- perform the work publicly (in the case of sound recordings*) by means of a digital audio transmission

In addition, certain authors of works of visual art have the rights of attribution and integrity as described in section 106A of the 1976 Copyright Act. For further information, see Circular 40, *Copyright Registration for Works of the Visual Arts*.

It is illegal for anyone to violate any of the rights provided by the copyright law to the owner of copyright. These rights, however, are not unlimited in scope. Sections 107 through 122 of the 1976 Copyright Act establish limitations on these rights. In some cases, these limitations are specified exemptions from copyright liability. One major limitation is the doctrine of “fair use,” which is given a statutory basis in section 107 of the 1976 Copyright Act. In other instances, the limitation takes the form of a “compulsory license” under which certain limited uses of copyrighted works are permitted upon payment of specified royalties and compliance with statutory conditions. For further information about the limitations of any of these rights, consult the copyright law or write to the Copyright Office.

***note: Sound recordings are defined in the law as “works that result from the fixation of a series of musical, spoken, or other sounds, but not including the sounds accompanying a motion picture or other audiovisual work.”** Common Copyright Basics - 2

examples include recordings of music, drama, or lectures. A sound recording is not the same as a phonorecord. A phonorecord is the physical object in which works of authorship are embodied. The word “phonorecord” includes cassette tapes, CDs, and vinyl disks as well as other formats.

Who Can Claim Copyright?

Copyright protection subsists from the time the work is created in fixed form. The copyright in the work of authorship immediately becomes the property of the author who created the work. Only the author or those deriving their rights through the author can rightfully claim copyright.

In the case of works made for hire, the employer and not

the employee is considered to be the author. Section 101 of the copyright law defines a “work made for hire” as:

1 a work prepared by an employee within the scope of his or her employment; *or*

2 a work specially ordered or commissioned for use as:

- a contribution to a collective work
- a part of a motion picture or other audiovisual work
- a translation
- a supplementary work
- a compilation
- an instructional text
- a test
- answer material for a test
- an atlas

if the parties expressly agree in a written instrument signed by them that the work shall be considered a work made for hire.

The authors of a joint work are co-owners of the copyright in the work, unless there is an agreement to the contrary.

Copyright in each separate contribution to a periodical or other collective work is distinct from copyright in the collective work as a whole and vests initially with the author of the contribution.

Two General Principles

- Mere ownership of a book, manuscript, painting, or any other copy or phonorecord does not give the possessor the copyright. The law provides that transfer of ownership of any material object that embodies a protected work does not of itself convey any rights in the copyright.
- Minors may claim copyright, but state laws may regulate the business dealings involving copyrights owned by minors. For information on relevant state laws, consult an attorney.

Copyright and National Origin of the Work

Copyright protection is available for all unpublished works, regardless of the nationality or domicile of the author.

Published works are eligible for copyright protection in the United States if any one of the following conditions is met:

- On the date of first publication, one or more of the authors is a national or domiciliary of the United States, or is a national, domiciliary, or sovereign authority of a treaty party,* or is a stateless person wherever that person may be domiciled; *or*
- The work is first published in the United States or in a foreign nation that, on the date of first publication, is a treaty party. For purposes of this condition, a work that is published in the United States or a treaty party within 30 days after publication in a foreign nation that is not a treaty party shall be considered to be first published in the United States or such treaty party, as the case may be; *or*
- The work is a sound recording that was first fixed in a treaty party; *or*
- The work is a pictorial, graphic, or sculptural work that is incorporated in a building or other structure, or an architectural work that is embodied in a building and the building or structure is located in the United States or a

treaty party; *or*

- The work is first published by the United Nations or any of its specialized agencies, or by the Organization of American States; *or*
- The work is a foreign work that was in the public domain in the United States prior to 1996 and its copyright was restored under the Uruguay Round Agreements Act (URAA). See Circular 38b, *Highlights of Copyright Amendments Contained in the Uruguay Round Agreements Act (URAA-GATT)*, for further information.
- The work comes within the scope of a presidential proclamation.

***A treaty party is a country or intergovernmental organization other than the United States that is a party to an international agreement.**

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What Works Are Protected?

Copyright protects “original works of authorship” that are fixed in a tangible form of expression. The fixation need not be directly perceptible so long as it may be communicated with the aid of a machine or device. Copyrightable works include the following categories:

- 1 literary works
- 2 musical works, including any accompanying words
- 3 dramatic works, including any accompanying music
- 4 pantomimes and choreographic works
- 5 pictorial, graphic, and sculptural works
- 6 motion pictures and other audiovisual works
- 7 sound recordings
- 8 architectural works

These categories should be viewed broadly. For example, computer programs and most “compilations” may be registered as “literary works”; maps and architectural plans may be registered as “pictorial, graphic, and sculptural works.”

What Is Not Protected by Copyright?

Several categories of material are generally not eligible for federal copyright protection. These include among others:

- works that have not been fixed in a tangible form of expression (for example, choreographic works that have not been notated or recorded, or improvisational speeches or performances that have not been written or recorded)
- titles, names, short phrases, and slogans; familiar symbols or designs; mere variations of typographic ornamentation, lettering, or coloring; mere listings of ingredients or contents
- ideas, procedures, methods, systems, processes, concepts, principles, discoveries, or devices, as distinguished from a description, explanation, or illustration
- works consisting entirely of information that is common property and containing no original authorship (for example: standard calendars, height and weight charts, tape measures and rulers, and lists or tables taken from public documents or other common sources)

How to Secure a Copyright

Copyright Secured Automatically upon Creation

The way in which copyright protection is secured is frequently misunderstood. No publication or registration or other action

in the Copyright Office is required to secure copyright. See the following note. There are, however, certain definite advantages to registration. See *Copyright Registration* on page 7.

Copyright is secured automatically when the work is created, and a work is “created” when it is fixed in a copy or phonorecord for the first time. “Copies” are material objects from which a work can be read or visually perceived either directly or with the aid of a machine or device, such as books, manuscripts, sheet music, film, videotape, or microfilm. “Phonorecords” are material objects embodying fixations of sounds (excluding, by statutory definition, motion picture soundtracks), such as cassette tapes, CDs, or vinyl disks. Thus, for example, a song (the “work”) can be fixed in sheet music (“copies”) or in phonograph disks (“phonorecords”), or both. If a work is prepared over a period of time, the part of the work that is fixed on a particular date constitutes the created work as of that date.

Publication

Publication is no longer the key to obtaining federal copyright as it was under the Copyright Act of 1909. However, publication remains important to copyright owners.

The 1976 Copyright Act defines publication as follows:

“Publication” is the distribution of copies or phonorecords of a work to the public by sale or other transfer of ownership, or by rental, lease, or lending. The offering to distribute copies or phonorecords to a group of persons for purposes of further distribution, public performance, or public display constitutes publication. A public performance or display of a work does not of itself constitute publication.

note: Before 1978, federal copyright was generally secured by the act of publication with notice of copyright, assuming compliance with all other relevant statutory conditions. U. S. works in the public domain on January 1, 1978, (for example, works published without satisfying all conditions for securing federal copyright under the Copyright Act of 1909) remain in the public domain under the 1976 Copyright Act.

Certain foreign works originally published without notice had their copyrights restored under the Uruguay Round Agreements Act (URAA). See Circular 38b and see *Notice of Copyright* section on page 4 for further information.

Federal copyright could also be secured before 1978 by the act of registration in the case of certain unpublished works and works eligible for ad interim copyright. The 1976 Copyright Act automatically extended copyright protection to full term for all works that, as of January 1, 1978, were subject to statutory protection.

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A further discussion of the definition of “publication” can be found in the legislative history of the 1976 Copyright Act. The legislative reports define “to the public” as distribution to persons under no explicit or implicit restrictions with respect to disclosure of the contents. The reports state that the definition makes it clear that the sale of phonorecords constitutes publication of the underlying work, for example, the musical, dramatic, or literary work embodied in a phonorecord. The reports also state that it is clear that any form of dissemination in which the material object does not change hands, for example, performances or displays on television, is not a publication no matter how many people

are exposed to the work. However, when copies or phonorecords are offered for sale or lease to a group of wholesalers, broadcasters, or motion picture theaters, publication does take place if the purpose is further distribution, public performance, or public display.

Publication is an important concept in the copyright law for several reasons:

- Works that are published in the United States are subject to mandatory deposit with the Library of Congress. See discussion on “Mandatory Deposit for Works Published in the United States” on page 10.
- Publication of a work can affect the limitations on the exclusive rights of the copyright owner that are set forth in sections 107 through 122 of the law.
- The year of publication may determine the duration of copyright protection for anonymous and pseudonymous works (when the author’s identity is not revealed in the records of the Copyright Office) and for works made for hire.
- Deposit requirements for registration of published works differ from those for registration of unpublished works. See discussion on “Registration Procedures” on page 7.
- When a work is published, it may bear a notice of copyright to identify the year of publication and the name of the copyright owner and to inform the public that the work is protected by copyright. Copies of works published before March 1, 1989, must bear the notice or risk loss of copyright protection. See discussion on “Notice of Copyright” below.

Notice of Copyright

The use of a copyright notice is no longer required under U. S. law, although it is often beneficial. Because prior law did contain such a requirement, however, the use of notice is still relevant to the copyright status of older works.

Notice was required under the 1976 Copyright Act. This requirement was eliminated when the United States adhered to the Berne Convention, effective March 1, 1989. Although works published without notice before that date could have entered the public domain in the United States, the Uruguay Round Agreements Act (URAA) restores copyright in certain foreign works originally published without notice. For further information about copyright amendments in the URAA, see Circular 38b.

The Copyright Office does not take a position on whether copies of works first published with notice before March 1, 1989, which are distributed on or after March 1, 1989, must bear the copyright notice.

Use of the notice may be important because it informs the public that the work is protected by copyright, identifies the copyright owner, and shows the year of first publication. Furthermore, in the event that a work is infringed, if a proper notice of copyright appears on the published copy or copies to which a defendant in a copyright infringement suit had access, then no weight shall be given to such a defendant’s interposition of a defense based on innocent infringement in mitigation

of actual or statutory damages, except as provided in section 504(c)(2) of the copyright law. Innocent infringement occurs when the infringer did not realize that the work was protected. The use of the copyright notice is the responsibility of the copyright owner and does not require advance permission from, or registration with, the Copyright Office.

Form of Notice for Visually Perceptible Copies

The notice for visually perceptible copies should contain all the following three elements:

- 1 The symbol © (the letter C in a circle), or the word “Copyright,” or the abbreviation “Copr.”; *and*
- 2 The year of first publication of the work. In the case of compilations or derivative works incorporating previously published material, the year date of first publication of the compilation or derivative work is sufficient. The year date may be omitted where a pictorial, graphic, or sculptural work, with accompanying textual matter, if any, is reproduced in or on greeting cards, postcards, stationery, jewelry, dolls, toys, or any useful article; *and*
- 3 The name of the owner of copyright in the work, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner.

Example: © 2011 John Doe

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The “C in a circle” notice is used only on “visually perceptible copies.” Certain kinds of works—for example, musical, dramatic, and literary works—may be fixed not in “copies” but by means of sound in an audio recording. Since audio recordings such as audio tapes and phonograph disks are “phonorecords” and not “copies,” the “C in a circle” notice is not used to indicate protection of the underlying musical, dramatic, or literary work that is recorded.

Form of Notice for Phonorecords of Sound Recordings

The notice for phonorecords embodying a sound recording should contain all the following three elements:

- 1 The symbol π (the letter P in a circle); *and*
- 2 The year of first publication of the sound recording; *and*
- 3 The name of the owner of copyright in the sound recording, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner. If the producer of the sound recording is named on the phonorecord label or container and if no other name appears in conjunction with the notice, the producer’s name shall be considered a part of the notice.

Example: π 2011 A.B.C. Records Inc.

note: Since questions may arise from the use of variant forms of the notice, you may wish to seek legal advice before using any form of the notice other than those given here.

Position of Notice

The copyright notice should be affixed to copies or phonorecords in such a way as to “give reasonable notice of the claim of copyright.” The three elements of the notice should ordinarily appear together on the copies or phonorecords or on the phonorecord label or container. The Copyright Office has issued regulations concerning the form and position of the copyright notice in the *Code of Federal Regulations* (37 CFR

201.20). For more information, see Circular 3, *Copyright Notice*.

Publications Incorporating U. S. Government Works

Works by the U. S. government are not eligible for U. S. copyright protection. For works published on and after March 1, 1989, the previous notice requirement for works consisting primarily of one or more U. S. government works has been eliminated. However, use of a notice on such a work will defeat a claim of innocent infringement as previously described provided the notice also includes a statement that identifies either those portions of the work in which copyright is claimed or those portions that constitute U. S. government material.

Example: © 2011 *Jane Brown*

*Copyright claimed in chapters 7–10,
exclusive of U. S. government maps*

Copies of works published before March 1, 1989, that consist primarily of one or more works of the U. S. government should have a notice and the identifying statement.

Unpublished Works

The author or copyright owner may wish to place a copyright notice on any unpublished copies or phonorecords that leave his or her control.

Example: Unpublished work © 2011 *Jane Doe*

Omission of Notice and Errors in Notice

The 1976 Copyright Act attempted to ameliorate the strict consequences of failure to include notice under prior law. It contained provisions that set out specific corrective steps to cure omissions or certain errors in notice. Under these provisions, an applicant had five years after publication to cure omission of notice or certain errors. Although these provisions are technically still in the law, their impact has been limited by the amendment making notice optional for all works published on and after March 1, 1989. For further information, see Circular 3.

How Long Copyright Protection Endures

Works Originally Created on or after January 1, 1978

A work that was created (fixed in tangible form for the first time) on or after January 1, 1978, is automatically protected from the moment of its creation and is ordinarily given a term enduring for the author's life plus an additional 70 years after the author's death. In the case of "a joint work prepared by two or more authors who did not work for hire," the term lasts for 70 years after the last surviving author's death. For works made for hire, and for anonymous and pseudonymous works (unless the author's identity is revealed in Copyright Office records), the duration of copyright will be 95 years from publication or 120 years from creation, whichever is shorter.

Works Originally Created Before January 1, 1978, But Not Published or Registered by That Date

These works have been automatically brought under the statute and are now given federal copyright protection. The duration of copyright in these works is generally computed in the same way as for works created on or after January 1, 1978:

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the life-plus-70 or 95/120-year terms apply to them as well.

The law provides that in no case would the term of copyright for works in this category expire before December 31, 2002, and for works published on or before December 31, 2002, the term of copyright will not expire before December 31, 2047.

Works Originally Created and Published or Registered before January 1, 1978

Under the law in effect before 1978, copyright was secured either on the date a work was published with a copyright notice or on the date of registration if the work was registered in unpublished form. In either case, the copyright endured for a first term of 28 years from the date it was secured. During the last (28th) year of the first term, the copyright was eligible for renewal. The Copyright Act of 1976 extended the renewal term from 28 to 47 years for copyrights that were subsisting on January 1, 1978, or for pre-1978 copyrights restored under the Uruguay Round Agreements Act (URAA), making these works eligible for a total term of protection of 75 years. Public Law 105-298, enacted on October 27, 1998, further extended the renewal term of copyrights still subsisting on that date by an additional 20 years, providing for a renewal term of 67 years and a total term of protection of 95 years.

Public Law 102-307, enacted on June 26, 1992, amended the 1976 Copyright Act to provide for automatic renewal of the term of copyrights secured between January 1, 1964, and December 31, 1977. Although the renewal term is automatically provided, the Copyright Office does not issue a renewal certificate for these works unless a renewal application and fee are received and registered in the Copyright Office. Public Law 102-307 makes renewal registration optional. Thus, filing for renewal registration is no longer required to extend the original 28-year copyright term to the full 95 years. However, some benefits accrue to renewal registrations that were made during the 28th year.

For more detailed information on renewal of copyright and the copyright term, see Circular 15, *Renewal of Copyright*; Circular 15a, *Duration of Copyright*; and Circular 15t, *Extension of Copyright Terms*.

Transfer of Copyright

Any or all of the copyright owner's exclusive rights or any subdivision of those rights may be transferred, but the transfer of exclusive rights is not valid unless that transfer is in writing and signed by the owner of the rights conveyed or such owner's duly authorized agent. Transfer of a right on a nonexclusive basis does not require a written agreement.

A copyright may also be conveyed by operation of law and may be bequeathed by will or pass as personal property by the applicable laws of intestate succession.

Copyright is a personal property right, and it is subject to the various state laws and regulations that govern the ownership, inheritance, or transfer of personal property as well as terms of contracts or conduct of business. For information about relevant state laws, consult an attorney.

Transfers of copyright are normally made by contract. The Copyright Office does not have any forms for such transfers. The law does provide for the recordation in the Copyright

Office of transfers of copyright ownership. Although recordation is not required to make a valid transfer between the parties, it does provide certain legal advantages and may be required to validate the transfer as against third parties. For information on recordation of transfers and other documents related to copyright, see Circular 12, *Recordation of Transfers and Other Documents*.

Termination of Transfers

Under the previous law, the copyright in a work reverted to the author, if living, or if the author was not living, to other specified beneficiaries, provided a renewal claim was registered in the 28th year of the original term.* The present law drops the renewal feature except for works already in the first term of statutory protection when the present law took effect. Instead, the present law permits termination of a grant of rights after 35 years under certain conditions by serving written notice on the transferee within specified time limits.

For works already under statutory copyright protection before 1978, the present law provides a similar right of termination covering the newly added years that extended the former maximum term of the copyright from 56 to 95 years.

For further information, see circulars 15a and 15t.

***note: The copyright in works eligible for renewal on or after June 26, 1992, will vest in the name of the renewal claimant on the effective date of any renewal registration made during the 28th year of the original term. Otherwise, the renewal copyright will vest in the party entitled to claim renewal as of December 31st of the 28th year.**

International Copyright Protection

There is no such thing as an “international copyright” that will automatically protect an author’s writings throughout the entire world. Protection against unauthorized use in a particular country depends, basically, on the national laws of that country. However, most countries do offer protection to

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foreign works under certain conditions, and these conditions have been greatly simplified by international copyright treaties and conventions. For further information and a list of countries that maintain copyright relations with the United States, see Circular 38a, *International Copyright Relations of the United States*.

Copyright Registration

In general, copyright registration is a legal formality intended to make a public record of the basic facts of a particular copyright. However, registration is not a condition of copyright protection. Even though registration is not a requirement for protection, the copyright law provides several inducements or advantages to encourage copyright owners to make registration. Among these advantages are the following:

- Registration establishes a public record of the copyright claim.
- Before an infringement suit may be filed in court, registration is necessary for works of U. S. origin.
- If made before or within five years of publication, registration will establish prima facie evidence in court of the validity of the copyright and of the facts stated in the certificate.

- If registration is made within three months after publication of the work or prior to an infringement of the work, statutory damages and attorney’s fees will be available to the copyright owner in court actions. Otherwise, only an award of actual damages and profits is available to the copyright owner.

- Registration allows the owner of the copyright to record the registration with the U. S. Customs Service for protection against the importation of infringing copies. For additional information, go to the U. S. Customs and Border Protection website at www.cbp.gov/.

Registration may be made at any time within the life of the copyright. Unlike the law before 1978, when a work has been registered in unpublished form, it is not necessary to make another registration when the work becomes published, although the copyright owner may register the published edition, if desired.

Registration Procedures

Filing an Original Claim to Copyright with the U.S. Copyright Office

An application for copyright registration contains three essential elements: a completed application form, a nonrefundable filing fee, and a nonreturnable deposit—that is, a copy or copies of the work being registered and “deposited” with the Copyright Office.

If you apply online for copyright registration, you will receive an email saying that your application was received.

If you apply for copyright registration using a paper application, you will not receive an acknowledgment that your application has been received (the Office receives more than 600,000 applications annually). With either online or paper applications, you can expect:

- a letter, telephone call or email from a Copyright Office staff member if further information is needed *or*
- a certificate of registration indicating that the work has been registered, or if the application cannot be accepted, a letter explaining why it has been rejected

Requests to have certificates available for pickup in the Public Information Office or to have certificates sent by Federal Express or another mail service cannot be honored.

If you apply using a paper application and you want to know the date that the Copyright Office receives your material, send it by registered or certified mail and request a return receipt.

You can apply to register your copyright in one of two ways.

Online Application

Online registration through the electronic Copyright Office (eCO) is the preferred way to register basic claims for literary works; visual arts works; performing arts works, including motion pictures; sound recordings; and single serials. Advantages of online filing include:

- a lower filing fee
- the fastest processing time
- online status tracking
- secure payment by credit or debit card, electronic check,

or Copyright Office deposit account

- the ability to upload certain categories of deposits directly into eCO as electronic files

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note: You can still register using eCO and save money even if you will submit a hard-copy deposit, which is required under the mandatory deposit requirements for certain published works. The system will prompt you to specify whether you intend to submit an electronic or a hard-copy deposit, and it will provide instructions accordingly.

Basic claims include (1) a single work; (2) multiple unpublished works if the elements are assembled in an orderly form; the combined elements bear a single title identifying the collection as a whole; the copyright claimant in all the elements and in the collection as a whole is the same; and all the elements are by the same author or, if they are by different authors, at least one of the authors has contributed copyrightable authorship to each element; and (3) multiple published works if they are all first published together in the same publication on the same date and owned by the same claimant.

Online submissions of groups of published photographs and automated databases consisting predominantly of photographs may be permitted if the applicant first calls the Visual Arts Division (202) 707-8202 for approval and special instructions. See the Copyright Office website at www.copyright.gov for further information. To access eCO, go to the Copyright Office website and click on *electronic Copyright Office*.

Paper Application

You can also register your copyright using forms TX (literary works); VA (visual arts works); PA (performing arts works, including motion pictures); SR (sound recordings); and SE (single serials). To access all forms, go to the Copyright Office website and click on *Forms*. On your personal computer, complete the form for the type of work you are registering, print it out, and mail it with a check or money order and your deposit. Blank forms can also be printed out and completed by hand, or they may be requested by postal mail or by calling the Forms and Publications Hotline at (202) 707-9100 (limit of two copies of each form by mail). Informational circulars about the types of applications and current registration fees are available on the Copyright Office website at www.copyright.gov or by phone.

Applications That Must Be Completed on Paper

Certain applications must be completed on paper and mailed to the Copyright Office with the appropriate fee and deposit. Forms for these applications include the following:

- Form D-VH for registration of vessel hull designs
- Form MW for registration of mask works
- Form CA to correct an error or to amplify the information given in a registration
- Form GATT for registration of works in which the U.S. copyright was restored under the 1994 Uruguay Round Agreements Act
- Form RE for renewal of copyright claims
- Applications for group registration, including group registration

of automated databases consisting predominantly of photographs and Form GR/PPh (published photographs), unless permission to enter the online pilot project mentioned above in "Online Application" is approved by the Visual Arts Division; Form GR/CP (contributions to periodicals); Form SE/Group (serials); and Form G/DN (daily newspapers and newsletters).

note: If you complete the application form by hand, use black ink pen or type. You may photocopy blank application forms. However, photocopied forms submitted to the Copyright Office must be clear and legible on a good grade of 8V" * 11" white paper. Forms not meeting these requirements may be returned, resulting in delayed registration. You must have Adobe Acrobat Reader® installed on your computer to view and print the forms accessed on the Internet. Adobe Acrobat Reader may be downloaded free from www.copyright.gov.

Mailing Addresses for Applications Filed on Paper and for Hard-copy Deposits

Library of Congress

U.S. Copyright Office

101 Independence Avenue SE

Washington, DC 20559

Filing a Renewal Registration

To register a renewal, send the following:

1 a properly completed application Form RE and, if necessary, Form RE Addendum, *and*

2 a nonrefundable filing fee* for each application and each Addendum. Each Addendum form must be accompanied by a deposit representing the work being renewed. See Circular 15, *Renewal of Copyright*.

***note: For current fee information, check the Copyright Office website at www.copyright.gov, write the Copyright Office, or call (202) 707-3000 or 1-877-476-0778.**

Deposit Requirements

If you file an application for copyright registration online using eCO, you may in some cases attach an electronic copy

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of your deposit. If you do not have an electronic copy or if you must send a hard copy or copies of your deposit to comply with the "best edition" requirements for published works, you must print out a shipping slip, attach it to your deposit, and mail the deposit to the Copyright Office. Send the deposit, fee, and paper registration form packaged together to:

Library of Congress

U.S. Copyright Office

101 Independence Avenue SE

Washington, DC 20559

The hard-copy deposit of the work being registered will not be returned to you.

The deposit requirements vary in particular situations.

The general requirements follow. Also note the information under "Special Deposit Requirements" in the next column.

- if the work is unpublished, one complete copy or phonorecord
- if the work was first published in the United States on or after January 1, 1978, two complete copies or phonorecords of the best edition
- if the work was first published in the United States before

January 1, 1978, two complete copies or phonorecords of the work as first published

- if the work was first published outside the United States, one complete copy or phonorecord of the work as first published

When registering with eCO, you will receive via your printer a shipping slip that you must include with your deposit that you send to the Copyright Office. This shipping slip is unique to your claim to copyright and will link your deposit to your application. Do not reuse the shipping slip.

note: It is imperative when sending multiple works that you place all applications, deposits, and fees in the same package. If it is not possible to fit everything in one package, number each package (e.g., 1 of 3; 2 of 4) to facilitate processing and, where possible, attach applications to the appropriate deposits.

Special Deposit Requirements

Special deposit requirements exist for many types of works. The following are prominent examples of exceptions to the general deposit requirements:

- If the work is a motion picture, the deposit requirement is one complete copy of the unpublished or published motion picture and a separate written description of its contents, such as a continuity, press book, or synopsis.
- If the work is a literary, dramatic, or musical work published only in a phonorecord, the deposit requirement is one complete phonorecord.
- If the work is an unpublished or published computer program, the deposit requirement is one visually perceptible copy in source code of the first 25 and last 25 pages of the program. For a program of fewer than 50 pages, the deposit is a copy of the entire program. For more information on computer program registration, including deposits for revised programs and provisions for trade secrets, see Circular 61, *Copyright Registration for Computer Programs*.
- If the work is in a CD-ROM format, the deposit requirement is one complete copy of the material, that is, the CD-ROM, the operating software, and any manual(s) accompanying it. If registration is sought for the computer program on the CD-ROM, the deposit should also include a printout of the first 25 and last 25 pages of source code for the program.

In the case of works reproduced in three-dimensional copies, identifying material such as photographs or drawings is ordinarily required. Other examples of special deposit requirements (but by no means an exhaustive list) include many works of the visual arts such as greeting cards, toys, fabrics, and oversized materials (see Circular 40a, *Deposit Requirements for Registration of Claims to Copyright in Visual Arts Material*); computer programs, video games, and other machine-readable audiovisual works (see Circular 61); automated databases (see Circular 65, *Copyright Registration for Automated Databases*); and contributions to collective works. For information about deposit requirements for group registration of serials, see Circular 62, *Copyright Registration for*

Serials.

If you are unsure of the deposit requirement for your work, write or call the Copyright Office and describe the work you wish to register.

Unpublished Collections

Under the following conditions, a work may be registered in unpublished form as a “collection,” with one application form and one fee:

- The elements of the collection are assembled in an orderly form;
- The combined elements bear a single title identifying the collection as a whole;
- The copyright claimant in all the elements and in the collection as a whole is the same; *and*

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- All the elements are by the same author, or, if they are by different authors, at least one of the authors has contributed copyrightable authorship to each element.

note: A Library of Congress Control Number is different from a copyright registration number. The Cataloging in Publication (CIP) Division of the Library of Congress is responsible for assigning LC Control Numbers and is operationally separate from the Copyright Office. A book may be registered in or deposited with the Copyright Office but not necessarily cataloged and added to the Library’s collections. For information about obtaining an LC Control Number, see the following website: <http://pcn.loc.gov/pcn>. For information on International Standard Book Numbering (ISBN), write to: *ISBN, R.R. Bowker, 630 Central Ave., New Providence, NJ 07974*. Call (800) 269-5372. For further information and to apply online, see www.isbn.org. For information on International Standard Serial Numbering (ISSN), write to: *Library of Congress, National Serials Data Program, Serial Record Division, Washington, DC 20540-4160*. Call (202) 707-6452. Or obtain information from www.loc.gov/issn.

An unpublished collection is not indexed under the individual titles of the contents but under the title of the collection.

Filing a Preregistration

Preregistration is a service intended for works that have had a history of prerelease infringement. To be eligible for preregistration, a work must be unpublished and must be in the process of being prepared for commercial distribution. It must also fall within a class of works determined by the Register of Copyrights to have had a history of infringement prior to authorized commercial distribution. Preregistration is not a substitute for registration. The preregistration application Form PRE is only available online. For further information, go to the Copyright Office website at www.copyright.gov.

Effective Date of Registration

When the Copyright Office issues a registration certificate, it assigns as the effective date of registration the date it received all required elements—an application, a nonrefundable filing fee, and a nonreturnable deposit—in acceptable form, regardless of how long it took to process the application and mail the certificate. You do not have to receive your certificate before you publish or produce your work, nor do you need permission from the Copyright Office to place

a copyright notice on your work. However, the Copyright Office must have acted on your application before you can file a suit for copyright infringement, and certain remedies, such as statutory damages and attorney's fees, are available only for acts of infringement that occurred after the effective date of registration. If a published work was infringed before the effective date of registration, those remedies may also be available if the effective date of registration is no later than three months after the first publication of the work.

Corrections and Amplifications of Existing Registrations

To correct an error in a copyright registration or to amplify the information given in a registration, file with the Copyright Office a supplementary registration Form CA. File Form CA in the same manner as described above under *Registration Procedures*. The information in a supplementary registration augments but does not supersede that contained in the earlier registration. Note also that a supplementary registration is not a substitute for original registration, for renewal registration, or for recordation of a transfer of ownership. For further information about supplementary registration, see Circular 8, *Supplementary Copyright Registration*.

Mandatory Deposit for Works Published in the United States

Although a copyright registration is not required, the Copyright Act establishes a mandatory deposit requirement for works published in the United States. See the definition of "publication" on page 3. In general, the owner of copyright or the owner of the exclusive right of publication in the work has a legal obligation to deposit in the Copyright Office, within three months of publication in the United States, two copies (or in the case of sound recordings, two phonorecords) for the use of the Library of Congress. Failure to make the deposit can result in fines and other penalties but does not affect copyright protection.

If a registration for a claim to copyright in a published work is filed online and the deposit is submitted online, the actual physical deposit must still be submitted to satisfy mandatory deposit requirements.

Certain categories of works are exempt entirely from the mandatory deposit requirements, and the obligation is reduced for certain other categories. For further information about mandatory deposit, see Circular 7a, *Mandatory Deposit of Copies or Phonorecords for the Library of Congress*.

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Use of Mandatory Deposit to Satisfy Registration Requirements

For works published in the United States, the copyright law contains a provision under which a single deposit can be made to satisfy both the deposit requirements for the Library and the registration requirements. To have this dual effect, the copies or phonorecords must be accompanied by the prescribed application form and filing fee. If applicable, a copy of the mandatory deposit notice must also be included with the submission.

Who May File an Application Form?

The following persons are legally entitled to submit an application form:

- **The author.** This is either the person who actually created the work or, if the work was made for hire, the employer or other person for whom the work was prepared.
- **The copyright claimant.** The copyright claimant is defined in Copyright Office regulations as either the author of the work or a person or organization that has obtained ownership of all the rights under the copyright initially belonging to the author. This category includes a person or organization who has obtained by contract the right to claim legal title to the copyright in an application for copyright registration.
- **The owner of exclusive right(s).** Under the law, any of the exclusive rights that make up a copyright and any subdivision of them can be transferred and owned separately, even though the transfer may be limited in time or place of effect. The term “copyright owner” with respect to any one of the exclusive rights contained in a copyright refers to the owner of that particular right. Any owner of an exclusive right may apply for registration of a claim in the work.
- **The duly authorized agent of such author, other copyright claimant, or owner of exclusive right(s).** Any person authorized to act on behalf of the author, other copyright claimant, or owner of exclusive rights may apply for registration. There is no requirement that applications be prepared or filed by an attorney.

Fees*

All remittances that are not made online or by deposit account should be in the form of drafts, that is, checks, money orders, or bank drafts, payable to *Register of Copyrights*. Do not send cash. Drafts must be redeemable without service or exchange fee through a U. S. institution, must be payable in U. S. dollars, and must be imprinted with American Banking Association routing numbers. International Money Orders and Postal Money Orders that are negotiable only at a post office are not acceptable.

If a check received in payment of the filing fee is returned to the Copyright Office as uncollectible, the Copyright Office will cancel the registration and will notify the remitter. The filing fee for processing an original, supplementary, or renewal claim is nonrefundable, whether or not copyright registration is ultimately made. Do not send cash. The Copyright Office cannot assume any responsibility for the loss of currency sent in payment of copyright fees. For further information, read Circular 4, *Copyright Fees*.

***note: Copyright Office fees are subject to change. For current fees, check the Copyright Office website at www.copyright.gov, write the Copyright Office, or call (202) 707-3000 or 1-877-476-0778.**

Certain Fees and Services May Be Charged to a Credit Card

If an application is submitted online, payment may be made by credit card or Copyright Office deposit account. If an application is submitted on a paper application form, the fee may not be charged to a credit card.

Some fees may be charged by telephone and in person in

the office. Others may only be charged in person in the office. Fees related to items that are hand-carried into the Public Information Office may be charged to a credit card.

• **Records Research and Certification Section:** Fees for the following can be charged in person in the Office or by phone: additional certificates; copies of documents and deposits; search and retrieval of deposits; certifications; and expedited processing. In addition, fees for estimates of the cost of searching Copyright Office records and for searches of the copyright facts of registrations and recordations on a regular or expedited basis may be charged to a credit card by phone.

• **Public Information Office:** These fees may only be charged in person in the office, not by phone: standard registration request forms; special handling requests for all standard registrations; requests for services provided by the Records, Research, and Certification Section when the

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U.S. Copyright Office - Library of Congress - 101 Independence Avenue SE - Washington, DC 20559 -

www.copyright.gov

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request is accompanied by a request for special handling; additional fee for each claim using the same deposit; full term retention fees; appeal fees; secure test processing fee; short fee payments when accompanied by a remittance due notice; and online service providers fees.

• **Public Records Reading Room:** On-site use of Copyright Office computers, printers, or photocopiers can be charged in person in the office.

• **Accounts Section:** Deposit accounts maintained by the Accounts Section may be replenished by credit card. See Circular 5, *How to Open and Maintain a Deposit Account in the Copyright Office*.

NIE recordations and claims filed on Form GATT may be paid by credit card if the card number is included in a separate letter that accompanies the form.

Search of Copyright Office Records

The records of the Copyright Office are open for inspection and searching by the public. Upon request and payment of a fee,* the Copyright Office will search its records for you. For information on searching the Office records concerning the copyright status or ownership of a work, see Circular 22, *How to Investigate the Copyright Status of a Work*, and Circular 23, *The Copyright Card Catalog and the Online Files of the Copyright Office*.

Copyright Office records in machine-readable form cataloged from January 1, 1978, to the present, including registration and renewal information and recorded documents, are available for searching on the Copyright Office website at www.copyright.gov.

For Further Information

By Internet

Circulars, announcements, regulations, all application forms, and other materials are available from the Copyright Office website at www.copyright.gov. To send an email communication, click on *Contact Us* at the bottom of the homepage.

By Telephone

For general information about copyright, call the Copyright Public Information Office at (202) 707-3000 or 1-877-476-0778 (toll free). Staff members are on duty from 8:30 am to 5:00 pm, eastern time, Monday through Friday, except federal holidays. Recorded information is available 24 hours a day. If you want to request paper application forms or circulars, call the Forms and Publications Hotline at (202) 707-9100 and leave a recorded message.

By Regular Mail

Write to:

*Library of Congress
Copyright Office-COPUBS
101 Independence Avenue SE
Washington, DC 20559*

The Copyright Public Information Office is open to the public 8:30 am to 5:00 pm Monday through Friday, eastern time, except federal holidays. The office is located in the Library of Congress, James Madison Memorial Building, 101 Independence Avenue SE, Washington, DC, near the Capitol South Metro stop. Staff members are available to answer questions, provide circulars, and accept paper applications for registration. Access for disabled individuals is at the front door on Independence Avenue SE.

The Copyright Office may not give legal advice. If you need information or guidance on matters such as disputes over copyright ownership, suits against possible infringers, procedures for publishing a work, or methods of obtaining royalty payments, you may need to consult an attorney.

note: The Copyright Office provides *NewsNet*, a free electronic mailing list that issues periodic email messages on the subject of copyright. The messages alert subscribers to hearings, deadlines for comments, new and proposed regulations, updates on eService, and other copyright-related subjects. *NewsNet* is not an interactive discussion group. Subscribe to *NewsNet* on the Copyright Office website at www.copyright.gov. Click on *News*. You will receive a standard welcoming message indicating that your subscription to *NewsNet* has been accepted.

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