

Copyright Registration for Computer Programs

Definition

A “computer program” is a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result.

Extent of Copyright Protection

Copyright protection extends to all the copyrightable expression embodied in the computer program. Copyright protection is not available for ideas, program logic, algorithms, systems, methods, concepts, or layouts.

Registering a 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.

Here are the options for registering your copyright, beginning with the fastest and most cost-effective method.

NOTE: Copyright Office fees are subject to change. For current fees, please check the Copyright Office website at www.copyright.gov, write the Copyright Office, or call (202) 707-3000.

Option 1: Online Registration

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
- 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

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

Circular 61

for 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. Hard-copy deposits are required for all published works.

Basic claims include (1) a single work; (2) multiple unpublished works if they are all by the same author(s) and owned by the same claimant; and (3) multiple published works if they are all first published together in the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.

To access eCO, go to the Copyright Office website at www.copyright.gov and click on *electronic Copyright Office*.

Option 2: Registration with Fill-In Form CO

The next best option for registering basic claims is the new fill-in Form CO. Using 2-D barcode scanning technology, the Office can process these forms much faster and more efficiently than paper forms completed manually. Simply complete Form CO on your personal computer, print it out, and mail it along with a check or money order and your deposit. To access Form CO, go to the Copyright Office website and click on *Forms*. Do not save your filled-out Form CO and reuse it for another registration. The 2-D barcode it contains is unique for each work that you register.

NOTE: Make sure your Form CO has a 2-D barcode on each page. Do not use screen shots to create your Form CO.

Option 3: Registration with Paper Forms

Paper versions of forms are still available. They are not available on the Copyright Office website; however, staff will send them to you by postal mail upon request. Remember that online registration through eCO and fill-in Form CO (see above) can be used for these types of applications.

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

*Library of Congress
U.S. Copyright Office-TX
101 Independence Avenue SE
Washington, DC 20559-6222*

Completing the Application

NOTE: These points do not cover all the required information on the application. Be sure to refer to the instructions before completing the application.

Author Created · In the “Author Created” space describe the copyrightable authorship in the computer program

for which registration is sought. Acceptable statements include “computer program,” “text of user’s manual and computer program,” etc. Do *not* refer to design, physical form, hardware, or algorithm. Do *not* describe the program’s features or functions.

Year of Completion · Give the year of completion and the exact date of first publication, if any, for the particular version of the computer program for which registration is sought.

Limitation of Claim · Complete this part of the application if the computer program contains a substantial amount of previously published, registered, or public domain material such as subroutines, modules, textual images, or if the work was developed using an underlying computer program or authoring tool. “Material excluded” may state “previous version.” Typical examples of descriptions of “New material included” are “computer program” and “editing.” Do *not* refer to debugging, error corrections, new functions of the revised program, or other unregistrable elements.

Deposit Requirements

Computer Programs without Trade Secrets

For published or unpublished computer programs, send one copy of identifying portions of the program (first 25 and last 25 pages of source code) reproduced in a form visually perceptible without the aid of a machine or device, either on paper or in microform, together with the page or equivalent unit containing the copyright notice, if any. Online registration is ideal for computer programs not embodied in a CD-ROM. The source code may be uploaded electronically, preferably in PDF format.

For a program less than 50 pages in length, send a visually perceptible copy of the entire source code. For a revised version of a program that has been previously published or previously registered or that is in the public domain, if the revisions occur throughout the entire program, send the page containing the copyright notice, if any, and the first 25 and last 25 pages of source code. If the revisions are not contained in the first 25 and last 25 pages, send any 50 pages representative of the revised material in the new program, together with the page or equivalent unit containing the copyright notice, if any, for the revised version.

In any case where the program is so structured that it has no identifiable beginning or end, the applicant should make a determination as to which pages may reasonably represent the first 25 and last 25 pages.

Where an applicant is unable or unwilling to deposit source code, he/she must state in writing that the work as deposited in object code contains copyrightable authorship. The Office will then register the work under its rule of doubt since it has not determined the existence of copyrightable authorship.

If a published user's manual or other printed documentation accompanies the computer program, deposit one copy of the user's manual along with one copy of the identifying material for the program.

NOTE: Such manuals must generally be mailed rather than uploaded electronically to the Copyright Office.

For programs written in HyperCard® and other scripted languages, the script is considered the equivalent of source code. Thus, the same number of pages of script would be required as is required for source code. Reproductions of on-screen text, buttons, and commands are not an appropriate substitute for this source code deposit. Where a scripted program contains trade secrets, the deposit of script pages must meet the requirements below.

NOTE: When a computer program is embodied in a CD-ROM, ordinarily the entire CD-ROM package must be mailed to the Copyright Office, including a complete copy of any accompanying operating software and instructional manual. If registration is sought for the computer program, the deposit should also include a printout of the first 25 and last 25 pages of source code for the program.

Computer Programs Containing Trade Secrets

Where a computer program contains trade secret material, include a cover letter stating that the claim contains trade secrets, along with the page containing the copyright notice, if any. Include a source code deposit as described below. The source code may be uploaded electronically with the exceptions noted above.

Entirely new computer programs · First 25 and last 25 pages of source code with portions containing trade secrets blocked out; or

First 10 and last 10 pages of source code alone, with no blocked out portions; or

First 25 and last 25 pages of object code plus any 10 or more consecutive pages of source code, with no blocked-out portions; or

For programs 50 pages or less in length, entire source code with trade secret portions blocked out.

Revised computer programs · If the revisions are present in the first 25 and last 25 pages, any one of the four options above, as appropriate; or

If the revisions are *not* present in the first 25 and the last 25 pages:

- 20 pages of source code containing the revisions with no blocked out portions; or
- any 50 pages of source code containing the revisions with some portions blocked out.

NOTE: Whenever portions of code are blocked out, the following requirements must be met:

- 1 the blocked out portions must be proportionately less than the material remaining; and
- 2 the visible portion must represent an appreciable amount of original computer code.

Points to Remember · Each separately published version of a computer program that contains new, copyrightable authorship *must be registered separately*, with a new application and fee. Registration of the first version may extend to the entire work if it contains no previously published or registered portions. Registration of any subsequent version covers only the new or revised material added to that version. The version of the work that is deposited should be the same version described on the application; thus, the title and dates on the application should correspond with those on the deposit copy.

NOTE: If the version to be registered is no longer available, it may be possible to register it using a later version under a grant of special relief. In this case, submit a written request for special relief to the Copyright Office, Attention: Registration and Recordation Program. Explain why the required version is not available and indicate what percentage of the authorship from the version to be registered remains in the version you are depositing. Your request will be evaluated upon receipt.

If the deposit material for the computer program has a copyright notice containing multiple year dates, the Copyright Office will question whether the particular program is a revised or derivative version if the "Limitation of Claim" area of the application has not been completed. If the program is not a derivative work and if the multiple year dates in the notice refer to *internal* revisions or *the history of development* of the program, please put that information in a cover letter to help speed processing.

If the deposit material for the computer program does not give a printed title and/or version indicator, please add the title and any indicia that can be used in identifying the particular program.

Screen Displays

Copyright protection for computer screen displays, including videogames, has been an issue in the courts for some time. Courts have differed in their opinions regarding whether screen displays may be registered separately.

The Copyright Office has consistently believed that a single registration is sufficient to protect the copyright in a computer program and related screen displays, including videogames, without a separate registration for the screen displays or a specific reference to them on the application for the computer program. An application may give a general description in the “Author Created” space, such as “computer program.” This description will cover any copyrightable authorship contained in the computer program and screen displays, regardless of whether identifying material for the screens is deposited.

A specific claim in the screen displays may be asserted on the application. In such a case, identifying materials for the screens must be deposited.

How to Register a Computer Program and Its Screen Displays

A single registration may be made for a computer program and its screen displays. When answering the “Type of work being registered” question, choose the type most appropriate to the predominant authorship. Because computer programs are literary works, registration as a “Literary Work” is usually appropriate. However, if pictorial or graphic authorship predominates, registration as a “Visual arts work” may be made. Similarly, if motion picture authorship or audiovisual material predominate, registration as a “Motion picture/audiovisual work” may be made.

The registration will extend to any copyrightable screens generated by the program, regardless of whether identifying material for the screens is deposited.

Option 1: Answer “computer program” to the “Author Created” question. In this case, deposit the source code as described above. Depositing identifying material for screens is optional.

Option 2: Answer “computer program, including text of screen displays,” or “computer program including audiovisual material” or “computer program including artwork on screen displays” in the “Other” portion of the “Author Created” question. In this case, you must deposit identifying material for the screen displays in addition to the

required source code. Identifying material for the screen displays should consist of images or printouts clearly revealing the screens. If using online registration, images of the screens may be uploaded electronically to the Copyright Office. For works that are predominantly audiovisual, such as videogames, ½-inch VHS videotape, CD-ROM, DVD, or uploading the audiovisual material online (provided the file is not too large to upload), are acceptable. Note, too, that if the screens are reproduced in an accompanying manual, the manual will suffice as identifying material.

The identifying material will be examined for copyrightability. When the screens are essentially not copyrightable (e.g., de minimis menu screens, blank forms, or the like), the application should not refer to screens. The description of authorship on the application should not refer to elements such as “menu screens,” “structure, sequence and organization,” “layout,” “format,” or the like.

NOTE: Regarding websites, registration of a computer program used in an online work does not automatically cover any visible or audible copyrightable elements that are generated by the code. To register those portions of an online work, the entire copyrightable content must be deposited. It is possible to register the computer program together with the online work, but the deposit requirements for both the program and the online work must be fulfilled. See Circular 66, *Copyright Registration for Online Works*, for important information on the required deposit and how to complete the application when registering online works.

Effective Date of Registration

A copyright registration is effective on the date the Copyright Office receives all the required elements in acceptable form. The time the Copyright Office requires to process an application varies, depending on the amount of material the Office is receiving. 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), but you can expect:

- a letter or a telephone call 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 Copyright Office or to have certificates sent by Federal Express or another mail service cannot be honored. If you want to know the date that the Copyright Office receives your paper application or hard-copy deposit, send it by registered or certified mail and request a return receipt.

For Further Information

By Internet

Circulars, announcements, regulations, certain applications forms, and other materials are available from the Copyright Office website at *www.copyright.gov*.

By Telephone

For general information about copyright, call the Copyright Public Information Office at (202) 707-3000. 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 20559-6304*

