

Copyright Registration for Motion Pictures, Including Video Recordings

General Information

Statutory Definition

Motion pictures are *audiovisual works* consisting of a series of related images that, when shown in succession, impart an impression of motion, together with any accompanying sounds. Motion pictures are typically embodied in film, videotape, or videodisk.

How Copyright Is Secured

Copyright in a motion picture is automatically secured when the work is created and “fixed” in a copy. The Copyright Office registers claims to copyright and issues certificates of registration but does not “grant” or “issue” copyrights.

Only the expression (camera work, dialogue, sounds, and so on) fixed in a motion picture is protectible under copyright. Copyright does not cover the idea or concept behind the work or any characters portrayed in the work.

Works that do not constitute a fixation of a motion picture include:

- a live telecast that is not fixed in a copy
- a screenplay or treatment of a future motion picture

Publication

Publication of a motion picture takes place when one or more copies are distributed to the public by sale, rental, lease, or lending or when *an offering* is made to distribute copies to a group of people (wholesalers, retailers, broadcasters, motion picture distributors, and the like) for purposes of further distribution or public performance. Offering to distribute a copy of a motion picture for exhibition during a film festival may be considered publication of that work.

For an offering to constitute publication, copies must be made and be ready for distribution. The *performance* itself of a motion picture (for example, showing it in a theater, on television, or in a school room) *does not* constitute publication.

Publication of a motion picture publishes all the components embodied in it including the music, the script, and the sounds. Thus, if a motion picture made from a screenplay is published, the screenplay is published to the extent it is contained in the published work.

Copyright Notice

Before March 1, 1989, the use of copyright notice was mandatory on all published works, and any work first published before that date should have carried a notice. For works first published on and after March 1, 1989, use of the copyright notice is optional. For more information about copyright notice, read Circular 3, *Copyright Notice*.

Copyright Registration

Advantages of Registration

Registration in the Copyright Office establishes a public record of the copyright claim. Before an infringement suit can be filed in court, registration is necessary for works of U.S. origin and for foreign works not originating in a country that is a party to the Berne Convention for the Protection of Literary and Artistic Works. For details about the Berne Convention, see Circular 38a, *International Copyright Relations of the United States*. Timely registration may also provide a broader range of remedies in an infringement suit. See Circular 1, *Copyright Basics*, for more information on the benefits of registration.

Registration Procedures

An application for copyright registration contains three essential elements: a completed application form, a non-refundable 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, 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. 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 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 the Copyright Office website and click on *Forms*.

Option 3: Registration with Paper Forms

Paper versions of Form PA (performing arts works, including motion pictures) and Form CON (continuation sheet for paper applications) are still available on paper. These paper forms are not accessible 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 performing arts 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 and the method of application.

If you apply online for copyright registration, you will receive an email notification when your application is received.

If you apply on a paper form, you will not receive an acknowledgment of your application (the Office receives more than 600,000 applications annually), but you can expect:

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

The Copyright Office cannot honor requests to make certificates available for pickup or to send them by Federal Express or another express mail service. If you want to know the date that the Copyright Office receives your paper application or hard-copy deposit, use registered or certified mail and request a return receipt.

Deposit Requirements for Registration

In addition to registering electronically through eCO or completing Form CO, you must send a copy and a description of the work being registered. The nature of the copy and description may vary, depending upon the factors indicated below.

For All Published Motion Pictures

- 1 *A separate description* of the nature and general content of the work—for example, a shooting script, a synopsis, or a pressbook; and
- 2 *One complete copy of the work.* A copy is complete if it is undamaged and free of splices and defects that would interfere with viewing the work.

For motion pictures first published in the United States. *One complete copy of the best edition.* Where two or more editions are published in the United States, the best edition is the one preferred by the Library of Congress. Currently, the Library accepts in descending order of preference:

- A Film, rather than another medium
 - 1 Preprint material, by special arrangement
 - 2 70mm positive print, if original production negative is greater than 35mm
 - 3 35mm positive prints
 - 4 16mm positive prints
- B Videotape formats
 - 1 Betacam SP
 - 2 Digital Beta (Digibeta)
 - 3 DVD
 - 4 VHS cassette

For motion pictures first published abroad. *One complete copy as first published or one copy of the best edition.*

For Unpublished Motion Pictures

- 1 a separate description of the work and
- 2 a copy of the work containing all the visual and aural elements covered by the registration. An alternative deposit option is available for unpublished motion pictures. For information, contact the Copyright Office at (202) 707-8182.

Requirements for Motion Pictures That Cannot Be Viewed by the Copyright Office Staff

The Copyright Office does not have equipment to view motion pictures in certain formats, including 1" open-reel videotapes and HDCAM, D-2, and 8mm videocassettes. If you send one of these formats, please include the credits in the separate written description. If the work was first published before March 1, 1989, the Copyright Office must examine the work for the required copyright notice. In this case, please send the best edition copy and a copy that the Copyright Office can view—for example, a ½" VHS videocassette.

Exceptions to the Normal Deposit Requirement

Special Relief

Where it is unusually difficult or impossible to comply with the deposit requirement for a particular motion picture, you may submit a written request for special relief from the normal requirement. The request, addressed to the *Chief of the Performing Arts Division*, must state why you cannot provide the required copy and describe the nature of the substitute copy being deposited. This letter should be included with the registration material.

The decision to grant or deny special relief is based on the acquisitions policies and archival considerations of the Library of Congress and the examining requirements of the Copyright Office.

Motion Picture Agreement

The Motion Picture Agreement establishes several alternative deposit procedures for published motion pictures. How well it serves a particular applicant depends on a number of factors, including the frequency of filing registrations. For detailed information, call the Motion Picture, Broadcasting, and Recorded Sound Division at (202) 707-5610 or write to:

Library of Congress
 Motion Picture, Broadcasting, and Recorded Sound Division
 ATTN: Reference Assistant
 101 Independence Avenue SE
 Washington, DC 20540-4805

Mandatory Deposit for Works Published in the United States

Requirement Under Mandatory Deposit

The owner of copyright or the owner of the exclusive right of publication of a motion picture published in the United States has a legal obligation to deposit in the Copyright Office within three months of publication in the United States one complete copy of the best edition and a description of the work. Failure to deposit this copy after the Copyright Office demands it can result in fines and other penalties.

Satisfying Mandatory Deposit Through Registration

Depositing the required copy with an application and fee for copyright registration simultaneously satisfies any mandatory deposit requirement for the motion picture. Satisfying the mandatory deposit requirement alone does not provide the benefits of copyright registration.

The Motion Picture Collection at the Library of Congress

The Library of Congress is the nation's central collection of books, recordings, photographs, maps, audiovisual works, and other research materials. Many of the Library's acquisitions are obtained through copyright deposits. The material acquired by this means is critical to the Library's recognized success in maintaining superior and comprehensive collections.

Motion pictures form an essential part of the Library's holdings. As feature films, television programs, videos, and other audiovisual media become increasingly popular as a means of communication, education, and entertainment in our society, they also form a greater part of our historical record. The preservation facilities and bibliographic control provided by the Library ensure that many of these works will be available to future generations.

Motion Pictures First Published Before 1978

Works first published with notice before 1978 had an original 28-year term of copyright, and registration had to be made within that first term. It could then be renewed in the 28th year for an additional term. Legislation enacted in 1992 made renewal automatic for works copyrighted between January 1, 1964, and December 31, 1977, and made it possible to register such works during their renewal term provided they were published with an acceptable notice. Such registrations must be made on Form RE accompanied by Form RE/Addendum. If such works were registered during their original term, their registrations can be renewed at any time during their renewal terms with just Form RE. The RE forms are available on the Copyright Office website. They must be completed on paper and mailed to the Copyright Office with the appropriate fee and deposit. It is not possible at this time to register motion pictures first published before 1978 through online registration (eCO) or on Form CO. See Circular 15, *Renewal of Copyright*, for more information.

Deposit Requirement

To register a claim in a motion picture first published before 1978 on Form RE and Form RE/Addendum, deposit *one copy of the work as first published*, that is, one of the first prints or tapes made from the master and distributed. If that is not available, send a dubbed copy of the first published edition that displays the original copyright notice. Read Circular 3, *Copyright Notice*, for notice requirements.

Form GATT

Under a 1994 amendment to the U.S. copyright law pursuant to enactment of the Uruguay Round Agreements Act (URAA), copyright in certain foreign works that had previously been in the public domain (including those that had entered the public domain because of publication without the required notice) was restored as of January 1, 1996. Works whose copyrights have been restored may be registered on Form GATT. Read Circular 38B, *Highlights of Copyright Amendments Contained in the Uruguay Round Agreements Act*, for more information.

For Further Information

By Internet

Circulars, announcements, regulations, certain application forms, and other materials are available on 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*

