

Copyright Registration for Musical Compositions

The copyright law of the United States provides for copyright protection in “musical works, including any accompanying words,” that are fixed in some tangible medium of expression. 17 U.S.C. §102(a)(2). Musical works include both original compositions and original arrangements or other new versions of earlier compositions to which new copyrightable authorship has been added.

The owner of copyright in a work has the exclusive right to make copies, to prepare derivative works, to sell or distribute copies, and to perform the work publicly. Anyone else wishing to use the work in these ways must have the permission of the author or someone who has derived rights through the author.

NOTE: Copyright in a musical work includes the right to make and distribute the first sound recording. Although others are permitted to make subsequent sound recordings, they must compensate the copyright owner of the musical work under the compulsory licensing provision of the law (17 U.S.C. §115). For more information, see Circular 73, *Compulsory License for Making and Distributing Phonorecords*.

Copyright Protection Is Automatic

Under the present copyright law, which became effective January 1, 1978, a work is automatically protected by copyright when it is created. A work is created when it is “fixed” in a copy or phonorecord for the first time. Neither registration in the Copyright Office nor publication is required for copyright protection under the law.

Advantages to Copyright Registration

There are, however, certain advantages to registration, including the establishment of a public record of the copyright claim. Copyright registration must generally be made before an infringement suit can be brought. Timely registration may also provide a broader range of remedies in an infringement suit.

Publication

Publication, as defined by the Copyright Act, 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.

“To the public” generally means to persons under no explicit or implicit restrictions with respect to disclosure. The following acts do *not* constitute publication: performance of the work, preparation of copies or phonorecords, or submission of the work to the Copyright Office.

The above definition of publication applies *only* to works governed by the copyright law that took effect January 1, 1978. For information about works published prior to 1978, call the Copyright Office at (202) 707-3000 or 1-877-476-0778 (toll free). Recorded information is available 24 hours a day, 7 days a week. Staff members are on duty from 8:30 AM to 5:00 PM, eastern time, Monday through Friday, except federal holidays.

Registration Procedures

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, check the Copyright Office website at www.copyright.gov, write the Copyright Office, or call (202) 707-3000 or 1-877-476-0778 (toll free).

Online Application

Online registration 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 as electronic files

NOTE: You can still register online 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. Hard-copy deposits are required for most published works.

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 dif-

ferent 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.

To register online, go to the Copyright Office website at www.copyright.gov and click on electronic Copyright Office.

Registration with Paper Forms

You can also register your copyright using Form PA. If you need a continuation sheet, use Form CON. To access all forms, go to the Copyright Office website and click on *Forms*. Complete the form on your personal computer, 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.

Remember that online registration (see above) can be used for musical compositions.

Mailing Address for Applications Filed on Paper and for Hard-copy deposits

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

How to Complete an Application

Instructions for completing an application accompany the electronic application screens. Nevertheless, registration is often delayed because of mistakes in filling out the form. The following points should be noted in particular.

Title • Give the title of the work being registered exactly as it appears on the copy or phonorecord.

- A group of *unpublished* works registered as a collection must be given a collection title. The individual titles may be given.
- For registration of an entire collection of *published* works, give the title of the collection.
- For registration of only some of the individual works in a published collection, give the titles of the individual works, followed by “Contained in (title of collection).”

See “Collections of Music” on page 5 for further information.

Author · Check “made for hire” *only* if that contribution was either (1) prepared by an employee within the scope of his or her employment or (2) specially ordered for a certain use, with an express written agreement signed by both parties that the work would be considered a work made for hire. Common examples of works made for hire include contributions to a collective work, parts of a motion picture or other audiovisual work, or supplementary works, such as new musical arrangements. If the contribution was made for hire, give the name of the *employer*, not the person who actually did the writing.

Specify what the author created as written or recorded in the copy or phonorecord that accompanies the application. Do *not* include elements not present in that copy or phonorecord. Do *not* include elements that are not protected by copyright, such as an idea, concept, name, or title.

Year of Completion · The year of creation is the year in which the version of the work to be registered was *first* fixed in writing or recorded in any other tangible form. When a work is written or recorded over a period of time or constitutes a new version of an earlier work, give the completion date of the final work or new version. *This year date must always be given.*

Claimant(s) · The *name* and *address* of the *copyright claimant(s)* must be given. The copyright claimant is either the author or a person or organization to whom the author has transferred *all* the rights in the U.S. copyright. When the claimant named is *not* the author, a brief transfer statement is required to show how the claimant acquired the copyright. Do not attach copies of documents of copyright transfer to the application. For information on how to record transfers or other documents pertaining to a copyright, see Circular 12, *Recordation of Transfers and Other Documents*.

Limitation of Claim

A “compilation” is a work formed by collecting and assembling preexisting materials that are selected, coordinated, or arranged in such a way that the resulting work as a whole constitutes an original work of authorship.

When an author contributes a certain minimum amount of authorship in the selection and ordering of *preexisting* musical compositions, the author creates a copyrightable compilation. The copyright in the compilation of the musical compositions is separate and distinct from copyright (if any) in the musical compositions themselves. Protection in the compilation extends *only* to the selection and ordering of the musical compositions.

Complete this space only if the work being registered contains a *substantial* amount of material

- 1 that was previously published
- 2 that was previously registered in the U.S. Copyright Office
- 3 that is in the public domain
- 4 that for any reason is not part of this claim

Leave this space blank if the work does not contain a substantial amount of any of these four kinds of material.

Certifications · For a published work, the paper and electronic applications must be certified on or after the date of first publication. If the certification date is earlier than the date of publication, the application cannot be accepted.

Deposit Requirements

Copyright Deposits

The term *copyright deposit* refers to the copy or copies of a work being registered and “deposited” with the Copyright Office. Depending on publication status, one or two copies of the work being registered must be submitted with a copyright application. For specific deposit requirements, see below.

As an added benefit of online registration, online filers can submit certain categories of works as electronic files, including (1) unpublished works, (2) works published only in electronic format, (3) published works for which there are special agreements requiring hard-copy deposits to be sent separately to the Library of Congress, and (4) published works for which the deposit requirement is identifying material. See the section “Special Deposit Requirements” in Circular 1, *Copyright Basics*, for information on “identifying material.”

Unpublished Works · Deposit one complete copy (lead sheet or sheet music) or phonorecord (disc or tape) or upload an electronic file containing the complete work. “Complete” means that the deposit includes everything that is to be covered by the registration. Registration generally covers only the material that is deposited for registration, even though the copyright law automatically gives copyright protection to all copyrightable authorship that is fixed in a copy or phonorecord. Separate applications for several works may be accompanied by one phonorecord containing all the works.

Hard copies should be legible, and both words and music on a phonorecord should be clear and audible. All deposits should bear the title of the work.

Copies of a group of works registered as a collection should be assembled in orderly form and fastened together or placed in a folder. The title of a collection should appear on copies and phonorecords.

Published Works · For a musical work first published in the United States on or after January 1, 1978, the deposit generally is two complete copies of the best edition.

Only one deposit is required for musical works that are

- published only on phonorecords (tapes or discs), unless the claim includes the sound recording, in which case, two phonorecords are required as the deposit;
- published by rental, lease, or lending (where there is a score and individual parts, only the score is required); or
- published as a single contribution to a collective work, for example, a hymn from a hymnal.

If first published in the United States *before January 1, 1978*, the deposit is two complete copies of the best edition of the work as first published.

If first published outside the United States *before March 1, 1989*, the deposit is one complete copy or phonorecord of the work as first published.

For a musical work first published outside the United States *on or after March 1, 1989*, the deposit is either one complete copy or phonorecord of the work as first published or the best edition of the work.

For separate registration of a musical composition published only in a motion picture soundtrack, the deposit is the following:

- 1 one copy of the motion picture, *or*
- 2 identifying material consisting of
 - a reproduction of the musical work *and*
 - a sheet of paper containing the title of the motion picture and any credits or copyright notice for the musical work, if any.

“Best Edition” Requirements

The copyright law requires that copies or phonorecords deposited in the Copyright Office be of the “best edition” of the work. The law states, “The ‘best edition’ of a work is the edition, published in the United States at any time before the date of deposit, that the Library of Congress determines to be most suitable for its purposes.” 17 U.S.C. §101.

When two or more editions of the same version of a work have been published, the one of the highest quality is generally considered to be the best edition. In judging quality, the

Library of Congress will adhere to the criteria set forth below in all but exceptional circumstances.

“Best Edition” of Published Copyrighted Musical Compositions

I Printed Copies (rather than phonorecords)

- a Fullness of Score
 - 1 Vocal music:
 - A With orchestral accompaniment—
 - i Full score and parts, if any, rather than conductor’s score and parts, if any¹
 - ii Conductor’s score and parts, if any, rather than condensed score and parts, if any²
 - B Unaccompanied: Open score (each part on separate staff) rather than closed score (all parts condensed to two staves)
 - 2 Instrumental music:
 - A Full score and parts, if any, rather than conductor’s score and parts, if any¹
 - B Conductor’s score and parts, if any, rather than condensed score and parts, if any²
- b Printing and Paper
 - 1 Archival-quality rather than less-permanent paper
- c Binding and Packaging
 - 1 Special limited editions rather than trade editions
 - 2 Bound rather than unbound
 - 3 If editions have different binding, apply the criteria in 1.A.2–1.A.12, in Circular 7B, “Best Edition” of Published Copyrighted Works for the Collections of the Library of Congress.
 - 4 With protective folders rather than without

II Phonorecords

- a Compact digital disc rather than a vinyl disc
- b Vinyl disc rather than tape
- c With special enclosures rather than without
- d Open-reel rather than cartridge
- e Cartridge rather than cassette
- f Quadraphonic rather than stereophonic
- g True stereophonic rather than monaural
- h Monaural rather than electronically rechanneled stereo

Collections of Music

Unpublished Collections

Two or more unpublished songs, song lyrics, or other musical works may be registered with one application and fee, *but only under certain conditions* stated in the Copyright Office regulations. One of those conditions is that the copyright owner or owners must be the same for all the songs. Copyright belongs to the author and can be transferred only by a written agreement or other legal means. If there has been no transfer and the songs are by different authors, this copyright ownership requirement has not been met. An additional requirement is that there must always be at least one author common to all the songs, even if there has been a transfer of ownership.

In the following examples, the musical works *can be registered with one application*:

- 1 Al wrote the music and Sue wrote the lyrics to each of eight songs.
- 2 Sue wrote the music and Al and Larry wrote the lyrics to each of four songs.

In the following examples, the musical works *cannot be registered with one application*:

- 1 Al wrote the lyrics and music to three songs and cowrote lyrics and music to four songs with Sue. (No transfer has taken place.)
- 2 Sue wrote the music for six songs. Al wrote the lyrics to two of the songs, and Larry wrote the lyrics to four of the songs.

The application should give a collection title. You may also give the individual titles. The collection title should also appear on the deposit copy or phonorecord.

The application should name all the individuals who contributed authorship to the musical works in the collection. If the authors are members of a performing group, you may state this after each name. Naming only a performing group as author does not clearly identify the authors.

Published Collections

A published collection of musical compositions may be registered with one application and fee if all the compositions are owned by the same copyright claimant. The entire collection may be registered under the collection title.

Notice of Copyright

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, see Circular 3, *Copyright Notice*.

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. 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* complete copies of the best edition. It is the responsibility of the owner of copyright or the owner of the right of first publication in the work to fulfill this mandatory deposit requirement. Failure to make the deposit can result in fines and other penalties but does not affect copyright protection. If applicable, a copy of the mandatory deposit notice must also be included with the submission.

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

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 90 days after the first publication of the work.

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

The Internet

Circulars, announcements, regulations, other related materials, and certain copyright application forms 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*

Notes

- 1 In cases of compositions published only by rental, lease, or lending, this requirement is reduced to full score only.
- 2 In cases of compositions published only by rental, lease, or lending, this requirement is reduced to conductor's score only.