

DEPOSITS

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DEPOSITS

1501 What This Chapter Covers

This Chapter discusses the deposit requirements for a variety of creative works. The term “deposit” is frequently misunderstood. It refers to the copy or copies of a work that are submitted to the U.S. Copyright Office. It does not refer to the filing fee that must be paid in order to register a work with the Office.

This Chapter is divided into two parts: Sections 1503 through 1510 discuss the deposit requirements for copyright registration, while Section 1511 discusses the mandatory deposit requirement (i.e., the deposit to the Library of Congress that is required of all works that are **published** in the United States). The information in this Chapter applies only to works subject to copyright protection under the 1976 Copyright Act.

For a discussion of the deposit requirements for works first copyrighted under federal law prior to January 1, 1978, see [Chapter 2100](#).

For a discussion of the deposit requirements for **mask works**, see [Chapter 1200](#), Section 1210.2(C).

For a discussion of the deposit requirements for **vessel designs**, see [Chapter 1300](#), Section 1313.

1502 Deposit for Registration Distinguished from Mandatory Deposit

The U.S. Copyright Act provides for two separate sets of deposit requirements: deposits submitted in connection with registration applications and deposits submitted in accordance with the mandatory deposit provisions (or “legal deposit” provisions) of the law. The U.S. Copyright Office administers both sets of provisions.

Mandatory deposit is a statutory requirement for the benefit of the national collection of the Library of Congress. [Section 407](#) of the Copyright Act provides that the owner of copyright or the owner of the **exclusive right of publication** in a work published in the United States must deposit two **copies** or **phonorecords** of the work within three months after publication. [17 U.S.C. § 407\(a\)](#).

As discussed below in [Section 1511.3](#), the Register of Copyrights has the authority to adjust or exempt certain works from the deposit requirements, as appropriate given the needs or concerns of applicants and the public. [17 U.S.C. §§ 407\(c\), 408\(c\)\(1\)](#). Registration is not required as a condition for copyright protection. But when an applicant chooses to register an original work of authorship, the deposit requirements for that work are governed by [Section 408](#) of the Copyright Act. The Register specifies by regulation the form of deposit that must accompany a copyright claim. These deposits are used to examine the work for **copyrightable** authorship, to verify the authorship claimed in the application, and to verify the facts stated in the application. Deposits may also be used for evidentiary purposes in litigation involving a copyrighted work.

Additionally, these deposits may be selected by the Library of Congress for use in its collections. [17 U.S.C. § 704](#).

In most cases, a deposit submitted for purposes of satisfying the mandatory deposit requirement may be used to satisfy the deposit requirement for registration, provided that the **applicant** submits the prescribed application and filing fee and any additional identifying material that the regulations may require. *See* [17 U.S.C. § 408\(b\)](#).

For some classes of works, the deposit requirements for registration and mandatory deposit are not the same. In such cases, a separate submission of copies, phonorecords, or **identifying material** may be needed to register the work and to satisfy the mandatory deposit requirements. For example, mandatory deposit for a **computer program** requires two complete copies of the best edition, while registration may be accomplished with identifying material containing a selection of the **source code** for that work. (For a definition and discussion of the term “best edition,” see Section [1504](#).)

1503 Deposit for Registration

1503.1 Overview of the Deposit Requirement

To register a copyright **claim** with the U.S. Copyright Office, an **applicant** must submit (i) a completed application, (ii) the appropriate **filing fee**, and (iii) a complete deposit of the work.

Section 408 of the Copyright Act provides general requirements for registration **deposit copies**. These requirements vary depending on whether the applicant intends to register a **published** work, an **unpublished** work, or a **foreign work**.

- For unpublished works, the applicant generally should submit one complete **copy** or **phonorecord** of the work. *See* [17 U.S.C. § 408\(b\)\(1\)](#), [37 C.F.R. § 202.20\(c\)\(1\)\(i\)](#). In the case of an unpublished pictorial, graphic, or sculptural work, the applicant generally may submit **identifying material** in lieu of an actual copy. *See* [37 C.F.R. § 202.20\(c\)\(2\)\(iv\)](#), [\(xi\)\(A\)](#).
- For works first published in the United States on or after January 1, 1978, the applicant generally should submit two complete copies or phonorecords of the work, typically in the **best edition** format. *See id.* [§ 202.20\(c\)\(1\)\(iii\)](#). Specifically, the applicant should submit two complete copies or phonorecords of the “best” edition that exists at the time the claim is filed. However, there are several exceptions to this rule, which are discussed in Sections [1509.1](#) through [1509.3](#). *See id.* [§ 202.20\(c\)\(2\)](#).
- For works published solely in a foreign country, the applicant should submit one complete copy or phonorecord of the work as first published in that country. *See id.* [§ 202.20\(c\)\(1\)\(iv\)](#). For works first published in a foreign country and subsequently published in the United States, the applicant may submit one complete copy or phonorecord of the work as first published in the foreign country. Alternatively, the applicant may submit one complete copy or phonorecord of the best edition published in the United States.
- A work that is first published simultaneously in the United States and a foreign country is considered published in the United States. *Id.* As such, two complete copies or phonorecords of the best edition are generally required for such works.

IMPORTANT NOTE: The Office cannot assign an effective date of registration for a work published in the United States until it receives the appropriate number of copies of that work or an appropriate amount of identifying material. If the applicant submits one copy when two copies are required, the Office will request a second copy of that work, and will not assign an effective date of registration until the second copy is received.

The terms “best edition,” “complete copy,” and “identifying material” are defined and discussed in Sections 1504, 1505, and 1506. Section 1507 discusses the appropriate format for the deposit, while Sections 1508.1 through 1508.7 discuss the procedure for submitting the deposit to the Office. Section 1508.8 discusses the procedure for requesting special relief from the deposit requirements.

1503.2 Refusal to Register

If the U.S. Copyright Office determines that the applicant failed to comply with the deposit requirements for a particular work, the registration specialist may communicate with the applicant or may refuse to register the claim. 17 U.S.C. § 410(b). The following are examples of situations where the Office may refuse to register a claim for failure to comply with the deposit requirement:

- The applicant failed to submit a copy or phonorecord of the work. 17 U.S.C. § 408(a).
- The applicant failed to submit a complete copy or phonorecord of the work. *Id.* § 408(b); 37 C.F.R. § 202.20(c)(1)(i)-(iv).
- The applicant failed to submit two copies or phonorecords of the best edition of a work published in the United States. 17 U.S.C. § 408(b)(2).
- The applicant failed to submit a *bona fide* copy of the work.
- The applicant failed to submit the required **identifying material** that is sufficient to show the authorship claimed in the application. 37 C.F.R. § 202.20(c)(2)(iv), (vii)-(xiv).
- The applicant failed to submit the work in an acceptable format.
- The applicant submitted the work in a form that cannot be examined by the Office.

The applicant must submit a *bona fide* copy of the work, regardless of whether the deposit consists of a complete copy, a complete phonorecord, or identifying material. For purposes of registration, a *bona fide* copy is a copy or phonorecord (i) that is virtually identical to the original copy or phonorecord of the work, and (ii) that is made from or by directly referring to the original copy or phonorecord. *Torres-Negron v. J&N Records, LLC*, 504 F.3d 151, 157 (1st Cir. 2007), *abrogated on other grounds by Reed Elsevier, Inc. v. Muchnick*, 559 U.S. 154 (2010); *Kodadek v. MTV Networks, Inc.*, 152 F.3d 1209, 1211-12 (9th Cir. 1998).

1504 What Is the Best Edition of the Work?

The Copyright Act states that the “material deposited for registration [of a published work] shall include . . . two complete copies or phonorecords of the *best edition*.” 17 U.S.C. § 408(b)(2) (emphasis added).

The “best edition” of a work is defined as “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; 37 C.F.R. §§ 202.19(b)(1), 202.20(b)(1).

The criteria used to identify the best edition for a particular work are listed in the “Best Edition Statement,” which is set forth in [Appendix B to Part 202](#) of the Office’s regulations. It is also posted on the Office’s website in [Best Edition of Published Copyrighted Works for the Collections of the Library of Congress \(Circular 7b\)](#).

NOTE: If a work was published in both a hard copy format (*i.e.*, in a physically tangible format) and an electronic format, the requirements set forth in the Best Edition Statement for the hard copy format apply. 37 C.F.R. § 202.20(b)(1). It is the **applicant’s** responsibility to submit the correct deposit.

1504.1 Works Exempt from the Best Edition Requirement

For purposes of registration, the following types of works are exempt from the best edition requirement:

- Unpublished works (including works that were published after the claim was submitted to the U.S. Copyright Office).
- Works published solely in a foreign country.

See 37 C.F.R. § 202.20(c)(1)(i), (c)(1)(iv).

If the work is unpublished, the applicant may upload an electronic copy of the work in an acceptable file format. The list of acceptable file formats is set forth in [Section 1507](#) below.

Likewise, the applicant may upload an electronic copy if the work was unpublished when the claim was submitted. There is no need to submit additional copy(ies) or phonorecord(s) if the work is subsequently published while the work is being examined or after the claim has been registered or refused.

If the work was published solely in a foreign country, the applicant may submit one copy of the first published edition of that work.

1504.2 Works Subject to the Best Edition Requirement

As discussed in [Section 1503.1](#), the applicant generally should submit two complete copies or phonorecords of the **best edition** of the work if the work was first published in the United States on or after January 1, 1978. See 37 C.F.R. § 202.20(c)(1)(iii). If the work was first published in a foreign country and then subsequently published in the United States, the applicant may

submit one complete copy of the foreign edition, or alternatively, the applicant may submit one complete copy of the best edition published in this country. *See id.* § 202.20(c)(1)(iv). If a work was published in the United States in both a physical format and an electronic format, the applicant should submit the best edition of the work in the physical format. *See id.* § 202.20(b)(1).

To identify the “best” edition of the work, applicants should focus solely on the edition(s) or format(s) that actually exist as of the date that the claim is filed. For example, if a novel was published in paperback form on the date the claim was filed, the applicant should submit the work in that format, even if the work is subsequently published in another format that the Library may prefer.

To be clear, applicants do not need to create a new edition of a work in order to satisfy the best edition requirement. For example, if a motion picture was published solely on DVD as of the date that the claim was filed, the applicant may submit the work in that format; there is no need to produce another edition solely for the purpose of seeking a registration.

If the **applicant** is unable to submit a complete copy or phonorecord of the best edition, the applicant may ask for special relief from the deposit requirements. For information concerning this procedure, see Section 1508.8.

1504.3 Applicant Makes the Determination

As a general rule, the applicant – not the U.S. Copyright Office – should determine whether the work is subject to the best edition requirement for purposes of registration. This determination should be based on the facts that exist at the time when the claim is filed with the Office.

The registration specialist will not ordinarily conduct independent research to determine whether a particular work is subject to the best edition requirement, whether the applicant submitted the best edition of that work, or whether a different edition may be required. In most cases, the specialist will accept the applicant’s determination, unless it is contradicted by information provided in the deposit itself or elsewhere in the registration materials. The Office leaves it to a court to determine whether a failure to comply with the best edition requirement was a knowing misrepresentation.

If the work was published solely in a format that is not listed in the Best Edition Statement, the applicant may seek further guidance concerning the deposit requirements for registration by submitting a written request to the Office of Registration Policy & Practice. The Office will provide the applicant with general information about the provisions of the Copyright Act, including the statutory definition of “best edition,” and will explain the regulatory requirements for registering that type of work.

1505 What Is a Complete Copy or Phonorecord?

The meaning of the term “complete” **copy** or **phonorecord** varies depending on the following factors:

- The type of work.
- Whether the work is **unpublished** or **published**.

- If published, whether the work was published in electronic or hard copy format.
- If the work was published as a contribution to a collective work.

See [37 C.F.R. § 202.20\(b\)\(2\)](#). These factors are discussed in Sections [1505.1](#) through [1505.5](#) below.

1505.1 Copies or Phonorecords of Unpublished Works

A **copy** or **phonorecord** of an **unpublished** work is complete if it contains all of the **copyrightable** authorship claimed on the application. See [37 C.F.R. § 202.20\(b\)\(2\)\(i\)](#).

1505.2 Copies or Phonorecords of Published Works

A **copy** or **phonorecord** of a **published** work is complete if it “includes all elements comprising the applicable unit of publication of the work, including elements that, if considered separately, would not be copyrightable subject matter.” [37 C.F.R. § 202.20\(b\)\(2\)\(ii\)](#).

There are several exceptions to this rule. Where certain physically separable elements usually attached to a unit of publication are missing, the copy or phonorecord is complete if:

- The **deposit** contains all parts of the work claimed on the application;
- The removal of the missing elements did not physically damage the copy or phonorecord or garble its contents; and
- The work is exempt from the mandatory deposit requirements under [17 U.S.C. § 407](#); or
- The deposit consists entirely of a “container, wrapper, or holder, such as an envelope, sleeve, jacket, slipcase, box, bag, folder, binder, or other receptacle acceptable for deposit....”

[37 C.F.R. § 202.20\(b\)\(2\)\(ii\)](#).

1505.3 Electronic Copies or Phonorecords of Unpublished Works

An electronic **copy** or **phonorecord** of an **unpublished** work is complete if it is submitted in a digital file that contains all of the **copyrightable** authorship claimed on the application. [37 C.F.R. § 202.20\(b\)\(2\)\(iii\)\(A\)](#).

1505.4 Electronic Copies or Phonorecords of Published Works

If the work is **published** solely in an electronic format, a **copy** or **phonorecord** of that work is complete if it is submitted in a digital file that contains all elements constituting the work in its published form (i.e., the complete work as published), including metadata and authorship for which registration is not sought. [37 C.F.R. § 202.20\(b\)\(2\)\(iii\)\(B\)](#) (“Publication in an electronic only format requires submission of the digital file[s] in exact first-publication form and content.”).

1505.5 Copies or Phonorecords of a Contribution to a Collective Work

As a general rule, a **copy** or **phonorecord** of a contribution to a **published collective work** is complete if the **applicant** submits one of the following:

- One complete copy of the **best edition** of the entire published collective work; or
- A photocopy or facsimile copy (*i.e.*, an exact copy equivalent) of the contribution as it was published in the collective work.

If the contribution was published in a newspaper, the copy is complete if the applicant submits one of the following:

- The complete section containing the contribution; or
- The contribution cut out from the newspaper in which it appeared.

See 37 C.F.R. § 202.20(b)(2)(iv).

1506 Identifying Material

Identifying material (“ID material”) is material that adequately represents the authorship claimed in an **unpublished** or **published** work. The U.S. Copyright Office has the authority to accept identifying material in lieu of a complete **copy** or **phonorecord** in cases where the copies or phonorecords would be too “bulky, unwieldy, easily broken, or otherwise impractical [to serve] as records identifying the work registered.” **H.R. REP. NO. 94-1476, at 154 (1976)**, reprinted in 1976 U.S.C.C.A.N. 5659, 5770.

Examples:

- To register a sculpture, the **applicant** may submit identifying material consisting of photographs taken at every angle of the sculpture, rather than submitting the actual sculpture. See 37 C.F.R. §§ 202.20(c)(2)(xi)(A)(1), 202.21(b).
- To register a **copyrightable** design that has been applied to the back of a chair or other useful article, the applicant should submit drawings or photographs of the design as it appears on the chair rather than the actual piece of furniture. See 37 C.F.R. §§ 202.20(c)(2)(xi)(B)(2), 202.21(a).
- To register a **computer program**, the applicant generally may submit identifying material containing a selection of the **source code** from the program. See 37 C.F.R. § 202.20(c)(2)(vii).

Submitting identifying material may be mandatory or permissive. In some cases, the applicant must submit identifying material in lieu of copies or phonorecords of the actual work, while in other cases the applicant has the option of submitting identifying material or actual copies or phonorecords of the work. Identifying material must be visually perceptible to the naked eye, meaning that the Office’s staff should not have to use a machine or device to examine the work. See 37 C.F.R. § 202.21(a).

The Register also may require submission of identifying material by regulation, in addition to the **best edition**. 17 U.S.C. § 408(b).

The specific type of identifying material that should be submitted varies depending on the type of work. The cases where identifying material is an acceptable substitute for copies or phonorecords of the actual work are described in the following sections:

Literary Works

- Computer programs: Section 1509.1(F). See 37 C.F.R. § 202.20(c)(2)(vii).
- Databases: Sections 1509.1(G)(2) and 1509.1(G)(3). See *id.* § 202.20(c)(2)(vii)(D).
- Compilations or other types of literary works fixed or published solely in machine-readable copies (other than a CD-ROM) from which the work cannot ordinarily be perceived except with the aid of a machine or device. See *id.* § 202.20(c)(2)(vii), (viii)(E).
- GATT Literary Works: Section 1509.1(M). See *id.* § 202.12(c)(3).

Works of the Performing Arts

- Musical works published in motion pictures: Section 1509.2(A)(2)(d). See *id.* § 202.20(c)(2)(xii).
- Audiovisual works that have not been fixed on CD-ROM: Section 1509.2(E)(2). See *id.* § 202.20(c)(2)(viii)(B).
- Unpublished motion pictures: Section 1509.2(F)(2). See *id.* § 202.20(c)(2)(ii).
- Audiovisual works, musical compositions, or sound recordings fixed or published solely in machine-readable copies (other than a CD-ROM) from which the work cannot ordinarily be perceived except with the aid of a machine or device. See *id.* § 202.20(c)(2)(viii)(B)-(D).
- GATT Works of the Performing Arts: Section 1509.2(I). See *id.* § 202.12(c)(3).

Visual Art Works

- Unpublished pictorial or graphic works: Section 1509.3(A)(1). See *id.* § 202.20(c)(2)(iv).
- Pictorial or graphic works published in a limited edition: Section 1509.3(A)(3). See *id.*
- Pictorial or graphic works reproduced in sheet-like material: Section 1509.3(A)(4). See *id.* § 202.20(c)(2)(x).
- Prints, labels, and other advertising matter that is inseparable from a three-dimensional object: Section 1509.3(A)(9). See *id.* § 202.20(c)(2)(xi)(A)(2), (c)(2)(xi)(B)(2).
- Pictorial or graphic works reproduced on three-dimensional containers or holders: Section 1509.3(A)(10). See *id.* § 202.20(c)(2)(xi)(B)(4).
- Three-dimensional visual arts works: Section 1509.3(B). See *id.* § 202.20(c)(2)(xi)(A)(1).

- Two- or three-dimensional holograms. *See id.* § 202.20(c)(2)(iii).
- Architectural works: Section 1509.3(D). *See id.* § 202.20(c)(2)(xviii)
- Pictorial or graphic works fixed or published solely in machine-readable copies (other than a CD-ROM) from which the work cannot ordinarily be perceived except with the aid of a machine or device. *See id.* § 202.20(c)(2)(viii)(A).
- GATT Visual Arts Works: Section 1509.3(E)(3). *See id.* § 202.12(c)(3).

Oversized Deposits

- Any work that is more than ninety-six inches in any dimension. *See id.* § 202.20(c)(2)(xiii).

1507 Acceptable Formats for Registration Deposits

Depending on the type of work, the **applicant** may submit **deposit copy(ies)** in one of two formats:

- Hard copy (by mail).
- Electronic (by upload).

These formats are discussed in Sections 1507.1 and 1507.2. Instructions for submitting deposits in hard copy format are provided in Section 1508.2. Instructions for submitting deposits in electronic format are provided in Section 1508.1.

1507.1 Hard Copy Format

Hard copy deposits are **copies** and **phonorecords** embodied in a physically tangible format. Examples of hard copy deposits include, but are not limited to, the following:

- Printed materials
- CDs
- DVDs
- Fabric
- Film

The deposit requirements for works **fixed** in hard copy format vary depending on whether the work is **unpublished** or **published**.

- *Unpublished works:* For unpublished works fixed in hard copy format, the applicant should submit one complete hard copy of the work. If the unpublished work is fixed in both electronic and hard copy format, the applicant may submit one complete copy in an electronic format (provided that the requirements set forth in Section 1507.2 have been met).

- *Published works fixed solely in hard copy format:* For published works fixed solely in hard copy format the applicant should submit complete copy(ies) or phonorecord(s) of the work in hard copy format.
- *Published works fixed in both electronic and hard copy format:* If the work was first published in both electronic and hard copy formats, the applicant generally must submit complete copy(ies) or phonorecord(s) in hard copy format. See 37 C.F.R. § 202.20(b)(1).

For a definition of the term “complete,” see Section 1505. For information on the deposit requirements for specific types of works that are typically fixed in hard copy format, see Sections 1509.1 through 1509.3.

1507.2 Electronic Format

Electronic **deposit copy(ies)** are **copies** or **phonorecords** embodied in electronic format, rather than or in addition to a hard copy format. **Applicants** may submit registration deposit copy(ies) in electronic format, provided that (i) the copy(ies) are “complete” as defined in Sections 1505.3 and 1505.4, (ii) the copy(ies) are submitted in one of the acceptable file formats discussed in Section 1508.1, and (iii) one or more of the following conditions has been met:

- The work is **unpublished**.
- The work is not subject to the **best edition** requirements.
- The work has been **published** only in electronic format.
- The work has been published and **identifying material** is permitted or required in lieu of a hard copy of the best edition.
- The applicant is registering the works using the **group registration** options for **unpublished works, serials, newspapers, newsletters, photographs, contributions to periodicals**, or secure test items.
- The applicant is submitting a group of photographs under the pilot program for a group of database updates that consist predominantly of photographs.
- The Office agrees to accept electronic copies or phonorecords under a grant of special relief.

For all other classes of works, applicants must submit the deposit in hard copy format (even if the application and **filing fee** are submitted through the electronic registration system). The U.S. Copyright Office will offer hard copy deposits to the Library of Congress for use in its collections. In addition to submitting a hard copy, the applicant may upload an electronic copy to the electronic registration system to ensure that the Office retains a copy of the work. When completing the online application, the applicant should state that the electronic copy is for archival purposes and that the hard copy will be sent separately. This statement should be provided in the Note to Copyright Office field.

1508 How to Submit a Registration Deposit

The **applicant** should submit registration **deposit copy(ies)** at the same time that the application and **filing fee** are submitted. Depending on the type of application and the deposit requirements for the work, the deposit copy(ies) may be submitted electronically or in hard copy format. These options are discussed in Sections **1508.1** and **1508.2**. For information concerning the difference between an electronic copy and a hard copy, see Sections **1507.1** and **1507.2**.

NOTE: To examine a work for **copyrightable** authorship, the U.S. Copyright Office's Registration Program must be able to view or listen to the deposit material without the need to enter a password. Therefore, a deposit **copy** or phonorecord should not contain digital rights management controls or otherwise require a password to unlock the copyrighted material, regardless of whether it is uploaded in electronic format or submitted in a hard copy (*i.e.*, physically tangible) format. Additionally, deposit copies and phonorecords must not contain any built-in limitations on the period of use.

1508.1 Electronic Deposit Copy(ies)

When completing an online application, the **applicant** may submit **deposit copy(ies)**, **phonorecords**, or **identifying material** in an electronic format, provided that the work satisfies the requirements set forth in Section **1507.2**. If the work does not satisfy these requirements, the applicant must submit the deposit copy(ies) in a hard copy format.

If the applicant submits a work that is not eligible for submission in electronic format, a member of the Registration Program may communicate with the applicant to request a proper deposit. This process will delay the examination of the application and may change the **effective date of registration**.

The preferred methods for submitting the deposit in electronic format, in order of preference, are as follows:

- *Uploading electronic files to the electronic registration system:* When submitting an online application, the applicant may upload a digital file to the Office's server that contains a complete copy of the work that is claimed in the application. Guidance on how to upload the files is available on the Office's **website**.
- *Submitting electronic files by mail, by commercial carrier, such as Federal Express or United Parcel Service, by courier, or by hand delivery:* When submitting an online application or a paper application, the applicant may submit a digital file that contains a complete copy of the work that is claimed in the application. The files should be saved onto a physical storage device, such as a flash drive, CD-ROM, DVD, or the like. The storage device may be delivered to the Office by mail, commercial carrier, courier, or hand delivery. For guidance on this procedure, see Sections **1508.3** through **1508.5**.
- *Identifying material:* If **identifying material** is permitted or required for the deposit, applicants are encouraged to submit that material in an electronic format. Specifically, applicants may upload the identifying material to the Office's server in the format that is most appropriate for the type of authorship that is claimed in the application. Alternatively, applicants may download the identifying material onto a physical storage device, such as a flash drive,

CD-ROM, or DVD, and may deliver that device to the Office by mail, commercial carrier, courier, or hand delivery. For guidance on this procedure, see Sections 1508.3 through 1508.5.

NOTE: When submitting an online application and delivering the deposit by mail, commercial carrier, courier, or hand delivery, the applicant must attach a **shipping slip** to each deposit. If the applicant fails to attach a shipping slip to each deposit, the Office will be unable to connect the deposit with the application. For information concerning this procedure, see Section 1508.2.

The applicant must submit the electronic deposit copy(ies), phonorecords or **identifying material** in an acceptable file format, regardless of whether they are uploaded through the electronic registration system or submitted on a physical storage device.

If the applicant fails to submit the deposit copy(ies) in an acceptable file format the registration specialist will refuse registration if the claim was received on or after December 17, 2017. If the claim was received before that date, the specialist may communicate with the applicant, which will delay the examination of the **claim** and will affect the effective date of registration. The Office cannot assign an effective date of registration for a work submitted in electronic format until it has received a file that can be opened and examined by the Registration Program.

A current list of acceptable file formats is posted on the Office's **website**. The list includes, but is not limited to, the following file formats:

- pdf
- txt
- wpd
- doc
- tif
- svg
- jpg
- html
- wav
- mpeg, including mp3

37 C.F.R. § 202.20(b)(2)(iii)(C).

The work should be submitted in a form that allows it to be perceived as a complete work of authorship. The registration specialist must be able to perceive the entire content of the work, including the context where each element appears within the work as a whole. The specialist may communicate with the applicant or may refuse registration if the applicant submits separate files or folders containing unassembled content or elements that have been disassociated from the context where they originally appeared within the work as a whole.

There is a maximum size restriction for each file that is uploaded to the electronic registration system. Specifically, the system will not accept any file that is more than 500 MB in size. Before uploading a file to the system, the applicant should confirm that the file does not exceed this size limit.

The system also has a sixty minute “time out” feature that automatically terminates the upload process if it takes more than one hour to complete. Depending on the connection speed of the applicant’s computer, it may be necessary to split the deposit into separate files to ensure that the upload can be completed in sixty minutes or less.

If the applicant intends to upload a large number of files, the Office encourages the applicant to submit the **deposit** in one or more compressed ZIP files. But in all cases, the files within the ZIP file must be submitted in an acceptable file format. If the ZIP file contains any files that do not appear on the list of acceptable file formats, the registration specialist may communicate with the applicant or refuse to register the claim.

Before uploading a ZIP file, the applicant should confirm that the file does not exceed the 500 MB size limit mentioned above. If the applicant intends to upload a very large file, the Office encourages the applicant to compress the deposit or to separate the deposit into two or more smaller files. Alternatively, the applicant may upload the deposit during two or more upload sessions; information concerning this procedure is available on the Office’s [website](#).

If the applicant is unable to upload the deposit with these options, then as discussed above, the applicant may save the **deposit copy(ies)** onto a physical storage device and deliver it to the Office by mail, commercial carrier, courier, or hand delivery, together with a **shipping slip** that connects the deposit with the online application.

1508.2 Hard Copy Deposits

The **applicant** must submit the **deposit copy(ies)**, **phonorecords**, or **identifying material** in a hard copy format in the following situations:

- The work is not eligible for submission in electronic format because it does not satisfy the requirements set forth in Section [1507.2](#).
- The applicant is submitting a paper application rather than an online application.

Applicants may submit the deposit copy(ies) in a hard copy format by mail, by commercial carrier, such as Federal Express or United Parcel Service, by courier, or by hand delivery. These delivery options are discussed in Sections [1508.3](#) through [1508.5](#).

When the applicant submits an online application and **filing fee** and subsequently submits the deposit copy(ies) using one of these methods, the applicant must attach a **shipping slip** to the deposit copy(ies) to ensure that the **deposit** will be paired with the online application. See [37 CFR 202.3\(b\)\(2\)\(i\)\(D\)](#). To create a shipping slip the applicant must click the Create Shipping Slip button at the bottom of the Case Summary screen then click the shipping slip link that appears in the field marked Send By Mail. The applicant must print one or more copies of the shipping slip, attach a copy to each deposit copy, and send all of these items to the Office in a single package.

The **effective date of registration** will be determined based on the date that the Office receives an acceptable application, the correct **filing fee**, and the deposit copy(ies) together with the corresponding shipping slip. If the shipping slip is not included with each physical deposit, the deposit copy(ies) cannot be connected with the application. In such cases, the application and the deposit copy(ies) will not be examined by a member of the Registration Program unless the applicant contacts the Office and agrees to pay an additional fee to locate the deposit copy(ies).

The amount of this fee is set forth in the Office’s **fee schedule** under the heading “Retrievals and Copies of Records.” If the Office is unable to locate the deposit copy(ies), the applicant will be required to resubmit the deposit copy(ies) to the Office with the required shipping slip (in addition to the location and retrieval fee). This process will change the effective date of registration for the claim.

1508.3 Submitting the Deposit by Mail or by Commercial Carrier

When completing an online application and submitting a hard copy deposit by mail or by commercial carrier, such as Federal Express or United Parcel Service, the **applicant** should send the **deposit copy(ies)** and the **shipping slip(s)** in a single package to the address specified on the shipping slip.

When submitting a paper application, the applicant should send the completed application, proper **filing fee**, and the deposit copy(ies) in a single package to the address specified in space 9 of the application under the heading marked “Mail To.”

1508.4 Submitting the Deposit by Courier

To submit hard copy **deposits** by courier, the **applicant** should place all the required materials in a single package (including the appropriate **shipping slip(s)**) when submitting an online application). The package should be sent to the Congressional Courier Acceptance Site (“CCAS”), which is located at 2nd and D Streets NE, Washington, DC. This location is open Monday through Friday from 8:30 a.m. to 4:30 p.m. Eastern Time, except for federal holidays. Short term parking for cars and bicycles is available.

Registration materials submitted through a courier service will not receive a dated receipt from the Office but will instead receive one dated by CCAS. The CCAS date of receipt is considered the date of receipt in the Office.

NOTE: A courier may deliver up to ten items at a time. Packages that are more than four inches by fourteen inches by eighteen inches will not be accepted. In such cases, the courier will be directed to deliver the package to an offsite mail processing center.

1508.5 Submitting the Deposit by Hand

To submit hard copy **deposits** in person, the **applicant** should place all the required materials in a single package (including the appropriate **shipping slip(s)**) when submitting an online application). The package should be delivered by hand to the U.S. Copyright Office’s Public Information Office (“PIO”). PIO is open to the public Monday through Friday, 8:30 a.m. to 5:00 p.m. Eastern Time, except for federal holidays. PIO is located at the following address:

Public Information Office U.S. Copyright Office
James Madison Memorial Building, Room LM-401
101 Independence Avenue SE
Washington D.C.

An applicant who delivers registration materials to PIO during regular office hours will receive a date-stamped receipt that lists the title of no more than one of the works listed on the application.

NOTE: Visitors to the U.S. Copyright Office must pass through security before entering the building. Sealed packages or packages that are more than twenty-four inches wide by fifteen inches high are not permitted.

1508.6 Screening Deposits for Anthrax and Other Contaminants

In October 2001, envelopes contaminated with anthrax arrived in some Congressional offices. This caused a one-week closure of Capitol Hill buildings, including the James Madison Memorial Building of the Library of Congress where the U.S. Copyright Office is located. Since that time, all deliveries that are sent to the Office are screened offsite for anthrax or other contaminants prior to delivery. This process will delay the delivery of any deposit that is sent to the Office by mail, commercial carrier, or courier.

1508.6(A) Deposits Damaged During Contaminants Screening

In some cases the screening for anthrax and other contaminants may damage the **deposit**. When a deposit is damaged due to this process, a member of the Registration Program will notify the **applicant** and request a replacement deposit.

The replacement deposit should be submitted to the address specified in the notification from the Office, together with a written declaration confirming that the replacement is identical to the deposit that was previously submitted, including the copyright **notice** (if appropriate). If the work is approved for registration, the delay in the examination of the work will not affect the **effective date of registration**.

If the applicant fails to submit a replacement deposit within the time specified in **Chapter 600**, Section 605.6, the file will be closed.

1508.6(B) How to Avoid Damage to Deposit Copy(ies)

To avoid damage to the deposit, applicants should package the following items in cardboard boxes rather than envelopes for delivery to the Office:

- Audiocassettes, videocassettes, CDs, and DVDs.
- Microform.
- Photographs.
- Glossy advertisements, color photocopies, and other print items.

NOTE: CDs packaged in standard full-sized jewel boxes are more likely to survive the screening process than those packaged in slim-line cases.

In all cases, applicants are encouraged to remove any internal and external plastic packaging from the deposit. This type of material may melt during the irradiation process, which may damage the deposit.

1508.7 Special Handling

1508.7(A) How to Request Special Handling When Submitting an Application

Special handling is a procedure for expediting the examination and processing of an application. The U.S. Copyright Office offers this service in certain circumstances where a copyright owner or other interested parties have a compelling reason for the expedited issuance of a **certificate of registration** (e.g., as a prerequisite for bringing a copyright **infringement** suit in federal district court). For information concerning this procedure, see **Chapter 600**, Section 623.

1508.7(B) How to Request Special Handling for a Pending Application

A request for **special handling** may be made at any time before the U.S. Copyright Office issues a **certificate of registration**. If an application is currently pending, the **applicant** may ask the Office to process the **claim** on an expedited basis, provided that the applicant pays the special handling fee and provided that there is a compelling reason for the request. For information concerning this procedure, see **Chapter 600**, Section 623.5(D).

1508.8 Special Relief from Registration Deposit Requirements

This Section discusses the procedure for requesting special relief from the registration deposit requirements. For information concerning the procedure for requesting special relief from the mandatory deposit requirements, see Section **1511.9**.

1508.8(A) What Is Special Relief?

The U.S. Copyright Office is authorized to grant special relief from the registration deposit requirements in certain circumstances. Specifically, the Office may allow the **applicant** to submit:

- One copy or phonorecord, or alternative identifying material (in lieu of submitting one or two copy(ies) or phonorecord(s) of the work).
- Incomplete copy(ies) or phonorecord(s) or copy(ies) or phonorecord(s) other than those normally comprising the **best edition**.
- Actual copy(ies) of the work (in lieu of submitting an electronic copy or identifying material).
- Identifying material that does not comply with **sections 202.4** or **202.21** of the Office's regulations.

37 C.F.R. § 202.20(d)(1)(i)-(iv).

1508.8(B) How to Request Special Relief

A request for special relief must be made in writing and must include the specific reason(s) why the request should be granted. The request should be addressed to the Associate Register of

Copyrights and Director of Registration Policy & Practice and should be signed by or on behalf of the person who signed the application. **37 C.F.R § 202.20(d)(3)**. The Associate Register will consider a request for special relief once the Office has received a completed application, the correct **filing fee**, and the **deposit copy(ies)**.

When completing an online application, the applicant may submit a request for special relief in the Note to Copyright Office field. Alternatively, the applicant may submit the request along with the deposit copy by using the following procedures:

- When submitting the deposit through the electronic registration system, the applicant may upload the request and the deposit through the Electronic Deposit Upload screen, provided that the work is eligible for submission in an electronic format. *See* Section **1507.2**. When using this option, the request should be prepared as a separate file and it should be uploaded before the deposit copy.
- When submitting the deposit by mail, commercial carrier, courier, or hand delivery, the request for special relief may be attached to the **shipping slip**.

When completing a paper application, the **applicant** may submit a request for special relief together with the application, the deposit, and the filing fee.

Once an application has been filed, the applicant may request special relief in response to an email or other written communication from a member of the Registration Program. Alternatively, the applicant may submit the request by mail to the following address:

Associate Register of Copyrights and
 Director of Registration Policy & Practice
 U.S. Copyright Office
 P.O. Box 70400
 Washington, DC 20024-0400

If the request is granted and if the work is approved for registration, a member of the Registration Program will add an annotation to the **certificate of registration** indicating that the work was registered under a grant of special relief.

If the request is denied, a member of the Registration Program will notify the applicant in writing. If the relevant deposit requirements have not been met, the staff member may ask the applicant to submit a replacement deposit. The replacement deposit should be sent to the address specified in the communication from the Office, together with a written declaration confirming that the work contained in the replacement is identical to the work contained in the initial deposit, including the copyright **notice** (if any).

If the work is approved for registration and if the **copyrightable** content of the replacement deposit and the initial deposit is the same, the **effective date of registration** will be determined based on the date that the Office received the initial deposit, the completed application, and the correct filing fee. If the copyrightable content is not the same, the effective date of registration will be determined based on the date that the Office received the replacement deposit, the completed application, and the correct filing fee.

If the applicant is unable to submit an acceptable deposit, the Office may refuse to register the **claim**.

1508.8(C) Ongoing or Continuous Grant of Special Relief

In certain situations, the [Register of Copyrights](#) may grant special relief on an ongoing or continuous basis for particular categories of works or for particular circumstances encountered by specific applicants. See [Part 202 – Registration of Claims to Copyright, Deposit Requirements](#) [43 Fed. Reg. 41,975, 41,976 \(Sept. 19, 1978\)](#).

1508.8(D) Termination of Special Relief

The [Register of Copyrights](#) may terminate any ongoing or continuous grant of special relief after consulting with other appropriate officials of the Library of Congress. In such cases, the Office will issue a written notice of termination that will be sent to the individual or organization that received the grant of special relief at the last address shown in the Office’s records. A notice may be issued at any time, but the termination will not go into effect until thirty days after the date that the notice is mailed. The notice will apply to works deposited after the effective date of the termination, but the termination does not affect the validity of any deposit or registration previously made under the grant of special relief. See [37 C.F.R. § 202.20\(d\)\(4\)](#).

1509 Deposit Requirements for Specific Types of Works

The [Register of Copyrights](#) has established specific **deposit** requirements for certain classes of works. See [17 U.S.C. § 408\(c\)\(1\)](#) (stating that the Register of Copyrights has the authority to “specify by regulation the administrative classes into which works are to be placed for the purposes of deposit and registration, and the nature of the **copies** or **phonorecords** to be deposited in the various classes specified.”). These requirements are discussed in Sections [1509.1](#) through [1509.3](#) below. For questions concerning works that are not addressed in these sections, applicants may contact the Public Information Office at (202) 707-5959, Monday through Friday, between the hours of 8:30 a.m. – 5:00 p.m. Eastern Time.

1509.1 Deposit Requirements for Literary Works

A **literary work** is a nondramatic work that explains, describes, or narrates a particular subject, theme, or idea through the use of narrative, descriptive, or explanatory text, rather than dialog or dramatic action. Generally, nondramatic literary works are intended to be read; they are not intended to be performed before an audience.

Examples of nondramatic literary works include the following types of works:

- Fiction
- Nonfiction
- Poetry
- Directories
- Catalogs
- Textbooks
- Reference works

- Advertising copy
- Book jackets
- Instructional works
- Compilations of information
- Computer programs
- Videogames
- **Databases**
- **Serials**

See 37 C.F.R. § 202.3(b)(1)(i).

To register an **unpublished** literary work, the **applicant** generally should submit one complete **copy** or **phonorecord** of the work. See 37 C.F.R. § 202.20(c)(1)(i).

To register a literary work that was first **published** in the United States on or after January 1, 1978, the applicant generally should submit two complete copies or phonorecords of the **best edition** of the work. See *id.* § 202.20(c)(1)(iii).

As discussed in Section 1504.2, the criteria used to identify the best edition for a literary work are listed in the Best Edition Statement, which is set forth in **Appendix B to Part 202** of the Office’s regulations. It is also posted on the Office’s website in *Best Edition of Published Copyrighted Works for the Collections of the Library of Congress (Circular 7b)*.

To register a literary work published in both electronic and hard copy formats, the applicant should submit complete copies of the work in the hard copy format. If the work was published solely in electronic format, the applicant may submit digital file(s) containing a complete copy of the work, provided that the requirements set forth in Section 1507.2 have been met.

There are exceptions to these rules for certain types of literary works. The deposit requirements for these types of works are discussed in Sections 1509.1(A) through 1509.1(K). The deposit requirements for foreign literary works are discussed in Sections 1509.1(L) and .

Section 1509.1(N) contains a series of charts that summarize the deposit requirements for these types of works. For detailed information on the copyrightability and registration of literary works, see **Chapter 700**.

1509.1(A) Literary Monographs

A literary monograph is a literary work that is “published in one volume or a finite number of volumes.” 37 C.F.R. § 202.19(b)(5). Examples of works that may qualify as a monograph include fiction, nonfiction, poetry, short stories, memoirs, textbooks, and other types of nondramatic literary works.

Most monographs are published in a single volume, rather than a series of successive issues or parts. Some monographs are published in separate volumes with each bearing the same title and successive numerical designations (as in the case of a multi-volume encyclopedia). But typically

the entire work is published in a limited number of volumes that, taken together, constitute the work as a whole.

To register an unpublished monograph, applicants should submit one complete copy of the work. To register a published monograph, **applicants generally** should submit one complete copy of the best edition of the work. *See* 37 C.F.R. § 202.20(c)(1)(i), (c)(2)(i)(L).

NOTE: Serials and legal publications are not considered monographs for purposes of registration. For information concerning the deposit requirements for these types of works, see Sections 1509.1(B) and 1509.1(C).

See Simplifying Deposit Requirements for Certain Literary Works and Musical Compositions, 82 Fed. Reg. 38,859, 38,860 (Aug. 16, 2017).

1509.1(B) Serials

A serial is a “work issued or intended to be issued in successive parts bearing numerical or chronological designations and intended to be continued indefinitely.” 37 C.F.R. § 202.3(b)(1)(v). An “electronic serial” is a serial “published in the United States” that is “available only online.” 37 C.F.R. § 202.19(b)(4).

Examples of works that may qualify as a serial include newspapers, magazines, newsletters, journals, and annuals. These types of works are typically published in successive issues and they are usually distributed on an established schedule. Each issue is published under the same continuing title, and they generally bear numerical or chronological designations that distinguish one issue from the next.

To register an issue that has not been published, the applicant should submit one complete copy of the work. *See* 37 C.F.R. § 202.20(c)(1)(i).

If the issue was published in a physical format or published in both a physical and electronic format, the applicant should submit two complete copies of the work in the physical format. *See* 37 C.F.R. § 202.20(b)(1).

If the issue was published solely in electronic format, the applicant should upload one complete copy of the work to the electronic registration system. Specifically, the applicant should upload one file containing all of the content appearing within that issue, and the content should be presented exactly as it appeared “in its published form.” 37 C.F.R. § 202.20(b)(2)(iii)(B). If the applicant uploads separate files containing the cover, table of contents, or other disaggregated content, the registration specialist may communicate with the applicant or may refuse registration.

In some cases it may be possible to register a group of serial issues with one application and one filing fee. For information concerning the deposit requirements for this group registration option, see Chapter 1100, Section 1107.5.

See Simplifying Deposit Requirements for Certain Literary Works and Musical Compositions, 82 Fed. Reg. 38,859, 38,860 (Aug. 16, 2017).

1509.1(C) Legal Publications

A legal publication is a work that contains, analyzes, annotates, summarizes, or comments upon legislative enactments, judicial decisions, executive orders, administrative regulations, or other edicts of government. *See* Chapter 700, Section 717.1. These types of works may be literary monographs or serials.

To register an unpublished legal publication, applicants should submit one complete copy of the work. To register a published legal publication, **applicants** should submit two complete copies of the best edition of the work. *See* 37 C.F.R. § 202.20(c)(1)(i), (c)(1)(iii).

See Simplifying Deposit Requirements for Certain Literary Works and Musical Compositions, 82 Fed. Reg. 38,859, 38,860 (Aug. 16, 2017).

1509.1(D) Book Jackets

To register a **claim** in the text, artwork, or other **copyrightable** material that appears only on a book jacket, the **applicant** should submit one complete copy of the jacket. The applicant need not submit a copy of the book itself, unless the copyrightable material is physically attached to the book (as in the case of an illustration on the cover of a paperback). *See* 37 C.F.R. § 202.20(c)(2)(i)(K) (requiring only one complete copy of works reproduced on three-dimensional containers); **Part 202 – Registration of Claims to Copyright, Deposit Requirements, 43 Fed. Reg. 41,975, 41,978 (Sept. 19, 1978)** (explaining that the exception for containers applies to book jackets).

1509.1(E) Games

A game may be registered as a literary work if the predominant form of authorship in the work consists of text. Examples of works that may satisfy this requirement include word games, card games, party games, riddles, brain teasers, and similar diversions, including the instructions or directions for playing a particular game.

The deposit requirement for a game varies, depending on whether the literary work is reproduced in a two-dimensional or three-dimensional object.

- To register a two-dimensional game, the **applicant** should submit one complete copy if the game is **unpublished**. If the game has been published, the applicant should submit one complete copy of the **best edition**.
- If the game is reproduced in or on a three-dimensional object, the applicant generally should submit **identifying material** containing all the **copyrightable** authorship claimed in the application, regardless of whether the game is **published** or unpublished. However, if the game consists of multiple parts that are packaged and published in a box or similar container that is larger than 12 by 24 by 6 inches, the applicant may submit one complete copy of the best edition in lieu of identifying material.

See 37 C.F.R. § 202.20(c)(1)(i) (requiring one complete copy for an unpublished work), (c)(2)(i)(J) (requiring one complete copy of works published in the form of two-dimensional games), (c)(2)(xi)(A)(1) (permitting identifying material for three-dimensional sculptural works), (c)(2)(xi)(B)(3) (exception to rule requiring identifying material for three-dimensional games pub-

lished in a container of a designated size), (c)(2)(i)(G) (one complete copy required for works subject to the exception set forth in § 202.20(c)(2)(xi)(B)); see also **Part 202 – Registration of Claims to Copyright, Deposit Requirements**, 43 Fed. Reg. 41,975, 41,976 (Sept. 19, 1978) (explaining that only one copy is required for works consisting of multiple parts that include three or more three dimensional, physically separable parts, such as board games, models kits, and certain kinds of craft kits).

1509.1(F) Computer Programs

To register a **computer program**, the **applicant** should submit “one copy of identifying portions” for the specific version of the program that the applicant intends to register. See 37 C.F.R. § 202.20(c)(2)(vii).

Specifically, the applicant should submit an identifying portion of the **source code** for the particular version of the program that the applicant intends to register, regardless of whether the program is **published** or **unpublished**, and regardless of whether the program is fixed in a CD-ROM, semiconductor chip, a magnetic tape or disk, or any other storage media. These issues are discussed in Sections 1509.1(F)(1) through 1509.1(F)(5) below.

As discussed below, the U.S. Copyright Office considers **source code** to be the best representation of the copyrightable authorship in a computer program. The Office generally discourages applicants from submitting **object code**, because it cannot be examined for copyrightable authorship. That said, the Office will accept a deposit consisting solely of object code if certain requirements have been met. For information concerning this option, see Section 1509.1(F)(4)(b).

In some cases the applicant may be required to submit additional material depending on the following factors:

- Whether the program is **fixed** in a CD-ROM.
- Whether the applicant expressly asserted a **claim** in the **screen displays** generated by the program.
- Whether the applicant intends to register the user manual or other documentation for the program.

These topics are discussed in Sections 1509.1(F)(6) through 1509.1(F)(7) below.

1509.1(F)(1) Source Code

The applicant may be required to submit the entire source code for the computer program, or the applicant may submit representative portions of the source code. See 37 C.F.R. § 202.20(c)(2)(vii). The amount of source code that is required varies depending on the length of the code, whether the work is a derivative computer program, and whether the code contains trade secret material. These issues are discussed in Sections 1509.1(F)(2) through 1509.1(F)(4) below.

The source code should be submitted either on paper or in an electronic file in a form that is perceptible to the human eye without the aid of a machine or device. See 37 C.F.R. § 202.20(c)(2)(vii). In all cases, applicants should add the title and version number of the program to the

first page of the code. This helps the Registration Program determine whether the version described in the application matches the version shown in the **identifying material**. To help staff determine whether a sufficient amount of code has been submitted, applicants may insert page numbers on each page of source code where applicable.

The applicant does not need to provide the total number of lines of source code that appear in the program. However, if there are inconsistencies in the identifying material, such as missing page numbers or gaps between the line numbers for the source code, a member of the Registration Program may communicate with the applicant to determine whether the **deposit** is complete.

See **H.R. REP. NO. 94-1476, at 153 (1976)**, reprinted in 1976 U.S.C.C.A.N. 5659, 5769 (authorizing the Register of Copyrights to “allow or require deposit of print-outs of computer programs under certain circumstances”); see also **Registration of Claims to Copyright Deposit Requirements for Computer Programs Containing Trade Secrets and for Computer Screen Displays**, 54 Fed. Reg. 13,173, 13,174-75 (Mar. 31, 1989).

1509.1(F)(2) Derivative Computer Programs

If the computer program contains an appreciable amount of unclaimable material, the program should be registered as a **derivative work**. For purposes of registration, unclaimable material includes:

- Previously published material,
- Previously registered material,
- Material that is in the **public domain**, or
- Copyrightable material that is owned by a third party.

A registration for a derivative computer program covers the new material or revised material that the author contributed to that work, but it does not cover any of the unclaimable material that may appear in the program. See **Chapter 700**, Section 721.8.

To register a **claim** in a derivative computer program, the **applicant** should submit a portion of the **source code** for the specific version of the program that the applicant intends to register.

- If the new material or revised material appears throughout the entire program, the applicant should submit a copy of the first and last twenty-five pages of the source code for that version.
- If the new material or revised material does not appear in the first and last twenty-five pages of the source code, the applicant should submit any fifty pages of source code that contain new or revised material.

In all cases, the applicant should submit the page of the source code that contains the copyright **notice** (if any) for the specific version that the applicant intends to register. **37 C.F.R. § 202.20(c)(vii)(A)(1)**.

1509.1(F)(3) Source Code That Does Not Contain Trade Secret Material

This Section discusses the deposit requirements for submitting **source code** that does not contain trade secret material.

The **applicant** should submit a portion of the source code for the specific version that the applicant intends to register. Specifically, the applicant should submit one copy of the first twenty-five pages and the last twenty-five pages of the source code for that version. In addition, the applicant should submit the page of the source code that contains the copyright **notice** (if any) for that version. **37 C.F.R. § 202.20(c)(2)(vii)(A)(1)**.

If the source code does not have a precise beginning, middle, or end, the applicant should submit fifty pages that represent the specific version that the applicant intends to register.

If the entire program is fifty pages or less, the applicant should submit the entire source code. In addition, the applicant should inform the U.S. Copyright Office that the entire code has been submitted. When submitting an online application this information should be provided in the Note to Copyright Office file; when submitting a paper application on **Form TX** this information should be provided in a cover letter.

1509.1(F)(4) Source Code That Contains Trade Secret Material

1509.1(F)(4)(a) Background

Section 705(a) of the Copyright Act requires the **Register of Copyrights** to prepare and maintain “records of deposits, registrations, recordations, and other actions” taken by the U.S. Copyright Office. **17 U.S.C. § 705(a)**. **Section 705(b)** states that all deposits maintained by the Office in connection with a completed copyright registration, “shall be open to public inspection.” *Id.* **§ 705(b)**.

In the 1980s a concern was expressed that making computer programs available for public inspection could jeopardize a copyright owner’s trade secret protection under state law. In response to these concerns, the Office established a specific procedure for **source code** that contains trade secret material.

For purposes of registration, a trade secret includes “any formula, pattern, device or compilation of information which is used in one’s business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it.” *Kewanee Oil Co. v. Bicron Corp.*, 416 U.S. 470, 474-75 (1974) (quoting the Restatement of Torts § 757, comment b (1939)).

See generally **Registration of Claims to Copyright Deposit Requirements for Computer Programs Containing Trade Secrets and for Computer Screen Displays**, 54 Fed. Reg. 13,173, 13,173 (Mar. 31, 1989); **Registration of Claims to Copyright; Deposit Requirements for Computer Programs Containing Trade Secrets**, 51 Fed. Reg. 34,667, 34,667-68 (Sept. 30, 1986); **Notice of Inquiry Deposit of Computer Programs and Other Works Containing Trade Secrets**, 48 Fed. Reg. 22,951, 22,952 (May 23, 1983).

1509.1(F)(4)(b) Computer Programs That Contain Trade Secret Material

If the **source code** for the computer program contains trade secret material, the **applicant** should submit a portion of the code using one of the following options:

- The applicant may submit the first ten pages and last ten pages of source code, provided that none of the code is blocked out;
- The applicant may submit the first twenty-five pages and last twenty-five pages of source code with the portions of the code that contain trade secret material blocked out, provided that the blocked out portions are proportionately less than the remaining material and provided that the unblocked portions contain an appreciable amount of original authorship;
- The applicant may submit the first twenty-five pages and last twenty-five pages of **object code** for the program together with ten or more consecutive pages of source code, provided that none of the source code is blocked out; or
- If the source code for the entire program is less than fifty pages, the applicant may submit the entire code with the portions of the code that contain trade secret material blocked out, provided that the blocked out portions are proportionately less than the remaining material and provided that the unblocked portions contain an appreciable amount of original authorship.

See **37 C.F.R. § 202.20(c)(2)(vii)(A)(2)**.

In all cases, the applicant should use the following guidelines in preparing the selection of source code:

- If the source code does not have a precise beginning, middle, or end, the applicant may submit an appropriate number of pages (using one of the options described above).
- The applicant should submit the portion of the source code that contains the copyright **notice** (if any) for that version.
- The applicant should notify the Office that the source code contains trade secret material. When completing an online application, this information should be provided in the Note to Copyright Office field. When completing a paper application on Form TX, this information should be provided in a cover letter.

Section 410(a) directs the **Register of Copyrights** to examine **claims** to copyright and to determine whether the material deposited “constitutes copyrightable subject matter.” **17 U.S.C. § 410(a)**. The U.S. Copyright Office considers source code to be the best representation of the copyrightable literary authorship in a computer program for examining purposes. By contrast, object code cannot be examined for copyrightable authorship, because it is written in a machine language that is unintelligible to human beings.

As mentioned above, an applicant may submit the first twenty-five pages and last twenty-five pages of object code. In such cases, the applicant must state in writing that the object code contains copyrightable authorship, and the applicant must request registration under the Rule of Doubt. When completing the online application, this statement should be provided in the Note to Copyright Office field. When completing a paper application, this statement should be provided in a cover letter. If the object code contains the copyright notice for the program, the

applicant should submit the portion of the code where the notice appears. The notice should be underlined or highlighted, and the content of that notice should be decoded and presented in words and numbers that are comprehensible to the Registration Program.

If the applicant submits object code, the registration specialist will examine the object code and will determine whether the other formal and legal requirements for registration have been satisfied. However, the specialist will not make any determination concerning the copyrightability of the object code. Instead, the specialist will accept the applicant's assertion that the object code contains copyrightable authorship and will register the program under the Rule of Doubt. This limitation will be reflected on the **certificate of registration** and in the **online public record** with an annotation, such as: "Regarding deposit: registration made under Rule of Doubt." See **37 C.F.R. § 202.20(c)(2)(vii)(B)**.

The annotation indicates that the Office did not conduct a complete examination for **copyrightable** authorship. Therefore, the certificate may not be entitled to a legal presumption concerning the validity of the copyright. If there is a legal dispute involving the program, the courts can evaluate the copyrightability of the object code.

If a court determines that an applicant submitted redacted source code or object code that does not contain trade secret material, the Office may communicate with the applicant "to secure the required... deposit material or to clarify the information previously given on the application." See **37 C.F.R. § 201.7(c)(4)**. If the Office does not receive a response within thirty days, or if the response does not resolve the substantive defect, it may cancel the registration for failure to comply with the relevant deposit requirements. See *id.*

1509.1(F)(4)(c) Derivative Computer Programs That Contain Trade Secret Material

If the **applicant** intends to register a derivative computer program that contains trade secret material and if the new material or revised material appears throughout the entire program, the applicant should submit a portion of the **source code** for that version using one of the following options:

- The applicant may submit the first ten pages and last ten pages of source code, provided that none of the code is blocked out; or
- The applicant may submit the first twenty-five pages and last twenty-five pages of source code with the portions of the code that contain trade secret material blocked out, provided that the blocked out portions are proportionately less than the remaining material and provided that the unblocked portions contain an appreciable amount of original computer code.

If the new material or revised material does not appear throughout the entire program or within the first twenty-five pages and last twenty-five pages of the source code, the applicant should use one of the following options:

- The applicant may submit twenty pages of code that are representative of the new or revised material, provided that none of the code is blocked out; or
- The applicant may submit any fifty pages of source code that are representative of the new or revised material. The portions of the code that contain trade secret material may be blocked out, provided that the blocked out portions are proportionately less than the remaining ma-

terial and provided that the unblocked portions contain an appreciable amount of original computer code.

In all cases, the applicant should submit the portion of the source code that contains the copyright **notice** (if any) for the specific version that the applicant intends to register. See [37 C.F.R. § 202.20\(c\)\(2\)\(vii\)\(A\)\(2\)](#).

In addition, the applicant should notify the Office that the source code contains trade secret material. When completing an online application, this information should be provided in the Note to Copyright Office field. When completing a paper application on [Form TX](#), this information should be provided in a cover letter.

1509.1(F)(4)(d) Appropriate Method for Blocking Out Source Code That Contains Trade Secret Material

As discussed in Sections [1509.1\(F\)\(4\)\(b\)](#) and [1509.1\(F\)\(4\)\(c\)](#), an **applicant** may block out the portions of the **source code** that contain trade secret material. The applicant should not block out any portions of the source code that do not contain trade secret material.

The applicant may block out entire words or phrases in the source code that are trade secrets. In the alternative, the applicant may block out entire pages of the code containing trade secrets, provided that the applicant leaves a vertical or diagonal strip of visible text on each page that is sufficient to show that the page contains copyrightable authorship. In all cases, the blocked out portions should be “proportionately less than the material remaining, and the **deposit** [should reveal] an appreciable amount of original computer code.” [37 C.F.R. § 202.20\(c\)\(2\)\(vii\)\(A\)\(2\)](#).

The U.S. Copyright Office will not accept blocked out pages that conceal virtually all of the copyrightable expression in the work. The unblocked portions of the deposit must contain enough computer code to enable the Registration Program to determine whether the deposit contains a sufficient amount of copyrightable expression to warrant registration under [Sections 102\(a\)](#) and [410](#) of the Copyright Act. The Office has not attempted to quantify the amount of source code that must remain visible, because the determination of copyrightable expression can never be based on an arbitrary formula. Instead, the regulation requires “[a]n appreciable amount of original computer code,” meaning sufficient original computer code to constitute recognizable copyrightable expression. *Id.* Whether a particular deposit meets this standard will be determined on a case-by-case basis. In most cases, the presence of copyrightable authorship is readily apparent. However, if all of the copyrightable expression has been blocked out and only uncopyrightable material remains visible, a member of the Registration Program will ask the applicant to submit an acceptable printout of source code and will change the effective date of registration to the date that an acceptable deposit is received. If the applicant is unable or unwilling to submit a deposit with copyrightable authorship that is visible to the Registration Program, registration may be refused, even if the unblocked portions represent more than fifty percent of the source code shown in the **identifying material**. See [Registration of Claims to Copyright Deposit Requirements for Computer Programs Containing Trade Secrets and for Computer Screen Displays](#), 54 Fed. Reg. 13,173, 13,174 & n.3, 13,175 (Mar. 31, 1989).

1509.1(F)(4)(e) Special Relief for Computer Programs Containing Trade Secrets

If the **applicant** is unable or unwilling to deposit **source code** using any of the options discussed in Sections **1509.1(F)(4)(b)** and **1509.1(F)(4)(c)**, the applicant may ask for special relief from the deposit requirements. For information concerning this procedure, see Section **1508.8**.

See **37 C.F.R. § 202.20(d)(1)(iv)**; **Registration of Claims to Copyright Deposit Requirements for Computer Programs Containing Trade Secrets and for Computer Screen Displays**, **54 Fed. Reg. 13,173, 13,175 (Mar. 31, 1989)**.

1509.1(F)(5) Computer Programs Fixed in a CD-ROM

“[A] CD-ROM package, whenever available, is the preferred form of deposit for the works embodied therein, both for registration and mandatory deposit.” **Registration of Claims to Copyright: Deposit of CD-ROM Format**, **56 Fed. Reg. 47,402 (Sept. 19, 1991)**.

If a computer program has been **fixed** in a CD-ROM, the **applicant** must submit “one complete copy of the entire CD-ROM package, including a complete copy of any accompanying operating software and instructional manual” for the program. **37 C.F.R. § 202.20(c)(2)(xix)(A)**. In addition, the applicant should submit a portion of the **source code** for the specific version of the program that the applicant intends to register, using the options discussed in Section **1509.1(F)(1)** through **1509.1(F)(4)**.

CD-ROMs typically contain a copy of the source code for the computer program that has been converted or compiled into object code. If the applicant fails to submit **identifying material** a member of the Registration Program will ask the applicant to submit a file or printout containing an appropriate portion of the code. *Id.* **§ 202.20(c)(2)(xix)(B)**. The requirements for the submission of source code are discussed in Sections **1509.1(F)(1)** through **1509.1(F)(4)** above.

See generally **Registration of Claims to Copyright; Mandatory Deposit of Machine-Readable Copies**, **54 Fed. Reg. 42,295, 42,298 (Oct. 16, 1989)** (“The Examining Division is required to examine for copyrightable authorship. Machine-readable copies are generally unsuitable for this task.”).

1509.1(F)(6) Computer Screen Displays

As a general rule, a computer program and the **screen displays** generated by that program are considered the same work, because in most cases the screen displays are created by the program code, together with any internal image library. If the copyright in the program and the screen displays are owned by the same **claimant**, the program and any related screen displays may be registered with the same application. See **Chapter 700**, Section 721.10.

When an **applicant** expressly asserts a **claim** in a computer program, the registration covers the **copyrightable** expression in the program code and any copyrightable screen displays that may be generated by that code, even if the applicant does not mention “screen displays” in the application and does not submit a copy of the screen displays with the program code. By contrast, if an applicant states “screen displays” in the application, the registration will not cover the computer program unless the applicant also asserts a claim in the “computer program” and submits an appropriate deposit for the work. See **Registration Decision; Registration and Deposit of Computer Screen Displays**, **53 Fed. Reg. 21,817, 21,819-20 (June 10, 1988)**.

When screen displays are specifically claimed in the application for registration, the applicant must submit a representative sampling of those screen displays. When registering derivative screen displays, the sampling must contain a sufficient amount of new material. For instance, the applicant may submit a visual reproduction of the screen displays, such as printouts, photographs, or drawings, provided that the reproductions are no smaller than three by three inches and no larger than nine by twelve inches. **37 C.F.R. § 202.20(c)(2)(vii)(C)(1)**. Alternatively, the applicant may submit a CD-ROM, DVD-ROM, and/or a user manual for the computer program, provided that it contains legible reproductions of the screen displays. (In this respect, the *Compendium of U.S. Copyright Office Practices, Third Edition* supersedes the Office’s policy statement concerning the registration and deposit of screen displays. See **54 Fed. Reg. 13,173, 13,177 (Mar. 31, 1989)**.)

If the screen displays primarily contain audiovisual material, the applicant should submit that material on a ½ inch VHS format videotape or request special relief. However, if the screen displays simply demonstrate the functions of the computer program, the applicant should submit printouts, photographs, or drawings that meet the size requirements discussed above. **37 C.F.R. § 202.20(c)(2)(vii)(C)(2)**.

NOTE: If the applicant is unable to submit identifying material using any of these options, the applicant may ask for special relief from the deposit requirements. For information concerning this procedure, see Section **1508.8**. In the alternative, the applicant may submit two complete copies of the work as published.

1509.1(F)(7) User Manuals and Other Documentation for a Computer Program

User manuals, instructional booklets, flowcharts, and other documentation that explain the development or operation of a computer program may be registered with the U.S. Copyright Office, provided that they contain a sufficient amount of original copyrightable authorship. See **Chapter 700**, Section 721.11.

If the claimant owns the copyright in the program and the user manual or other documentation for that program, and if the claimant physically packaged these items together and distributed them to the public as a single, integrated unit (such as a shrink-wrapped box containing a disk and booklet), it may be possible to register them together with one application and one **filing fee**. Specifically, the applicant may be able to register the works with the unit of publication option. See **37 C.F.R. § 202.3(b)(4)**. By contrast, if the program and the documentation are distributed online, if they are distributed separately from each other, or if they are owned by different claimants, each element is considered a separate work and a separate application for each element is required.

To register a computer program and the documentation for that program as a unit of publication, the **applicant** should submit one complete copy of the unit, together with identifying portions of the program code. (The deposit requirements for computer programs are discussed in Sections **1509.1(F)(1)** through **1509.1(F)(5)** above.)

To register a user manual or other documentation without asserting a **claim** in the computer program, the applicant should submit two complete copies of the user manual or other documentation (if the work has been published) or one complete copy of the user manual or other documentation (if the work is **unpublished**).

For more information concerning the unit of publication option, see Chapter **1100**, Section 1107.

1509.1(G) Databases

This Section discusses the deposit requirements for registering a specific version of a single-file or multi-file database.

NOTE: When a specific version of a database has been infringed, the copyright owner may be eligible to claim statutory damages if that version was registered with the U.S. Copyright Office before the infringement began or within three months after that version was first published. *See* 17 U.S.C. § 412. A registration for a specific version of a database does not cover previously **published** versions of that database. Likewise, it does not cover any subsequent updates or revisions that may be made to the database, regardless of whether the database is published or **unpublished**. However, the Office has established a special procedure that allows **applicants** to register a database together with the subsequent updates or revisions that were made to that database within a period of three months or less. The deposit requirements for this **group registration** option are discussed in **Chapter 1100**, Section 1112.7.

1509.1(G)(1) Databases Fixed in CD-ROMs

If the database has been **fixed** in a CD-ROM, the **applicant** must submit “one complete copy of the entire CD-ROM package.” *See* 37 C.F.R. § 202.20(c)(2)(xix)(A). If a member of the Registration Program is unable to view the CD-ROM using the equipment available in the U.S. Copyright Office, he or she will communicate with the applicant. *See id.* § 202.20(c)(2)(xix)(B).

In all other cases, the applicant should submit identifying portions of the database, as discussed in Sections 1509.1(G)(2) and 1509.1(G)(3) below.

1509.1(G)(2) Databases That Do Not Consist Predominantly of Photographs

This Section discusses the deposit requirements for a database that does not consist predominantly of photographs.

The **applicant** should submit identifying portions for the specific version of the database that the applicant intends to register, regardless of whether the database is **published** or **unpublished**. The identifying portions should be submitted on paper or in microfilm and should be visually perceptible without the aid of a machine or device. *See* 37 C.F.R. § 202.20(c)(2)(vii)(D).

The amount of material that is required varies depending on whether the applicant intends to register a revised database, and whether the database contains a single data file or multiple separate and distinct data files. For purposes of registration, a data file is a group of records pertaining to a common subject matter, regardless of the size or the amount of data within the records. *Id.* § 202.20(c)(2)(vii)(D)(2).

- If the database contains a single data file, the applicant should submit the first twenty-five pages and last twenty-five pages or equivalent units of the database. In addition, the applicant should submit a statement confirming that the work is a single-file database that does not require a descriptive statement.
- If the applicant intends to register a database that contains multiple separate or distinct data files, the applicant should submit fifty complete data records from each data file or the entire

data file, whichever is less. In addition, the applicant should submit a descriptive statement that contains the information set forth in [Chapter 1100](#), Section 1112.7(C), and that clearly identifies the creative authorship involved in selecting, coordinating, and/or arranging the content of the database.

- If the applicant intends to register a revised version of a database that contains a single data file, the applicant should submit fifty representative pages or data records that were added to or modified in that version. In addition, the applicant should submit a statement confirming that the work is a single-file database that does not require a descriptive statement.
- If the applicant intends to register a revised version of a database that contains multiple separate or distinct data files, the applicant should submit fifty representative pages or data records that were added to or modified in that version. In addition, the applicant should submit a descriptive statement that contains the information set forth in [Chapter 1100](#), Section 1112.7(C), and that clearly identifies the new authorship involved in selecting, coordinating, and/or arranging the content of the revised database.

See id. § 202.20(c)(2)(vii)(D)(1), (3), (4), (5).

If the database contains a copyright **notice**, the applicant should provide the following information:

- If the notice is in a machine-readable format, the applicant should provide the exact content of the notice and indicate the manner and frequency with which it is displayed (*e.g.*, at a terminal when a user signs on, continuously on the terminal display, on printouts from the database, etc.).
- If the notice appears on copies of the database or on magnetic tape reels or the containers for those reels, the applicant should submit a photocopy or other sample of the notice.

Id. § 202.20(c)(2)(vii)(D)(6)-(7).

1509.1(G)(3) Databases That Predominantly Consist of Photographs

This Section discusses the deposit requirements for a database that consists predominantly of photographs.

In all cases, the **applicant** must submit a copy of each photograph that is included in the **claim**. [37 C.F.R. § 202.20\(c\)\(2\)\(vii\)\(D\)\(8\)](#). The applicant may submit the photographs in a hard copy format using one of the formats described in [Chapter 1100](#), Section 1114.4. In the alternative, the applicant may upload the photographs in an electronic format, provided that the applicant obtains permission to use the electronic registration system from the Visual Arts Division, and submits the online application and the **deposit copies** after consulting with, and under the supervision of, that Division.

In addition, the applicant must submit identifying portions of the database using one of the methods described in Section [1509.1\(G\)\(2\)](#). The identifying material must be sufficient to show the authorship involved in selecting, coordinating, and/or arranging the photographs that appear within the database. If the compilation authorship is not perceptible in the deposit, or if the compilation authorship shown in the deposit is not sufficiently creative, the registration specialist will refuse to register the claim, irrespective of the creativity in the individual photographs.

NOTE: In some cases, the Visual Arts Division may ask the applicant to submit additional deposit material, particularly when the claim is submitted using the electronic registration system. For specific guidance, applicants should contact the Visual Arts Division at (202) 707-8202.

See generally **Deposit Requirements for Registration of Automated Databases That Predominantly Consist of Photographs**, 76 Fed. Reg. 5106 (Jan. 28, 2011); **Registration of Claims to Copyright**, 76 Fed. Reg. 4072 (Jan. 24, 2011).

1509.1(H) Literary Works Fixed in a CD-ROM

To register a literary work that is **fixed** in a CD-ROM, the **applicant** generally should submit one complete copy of the entire CD-ROM package, “including a complete copy of any accompanying operating software and instructional manual . . .” 37 C.F.R. § 202.20(c)(2)(xix)(A). If the work is fixed in print as well as in the CD-ROM, the applicant also should submit a printed version of the work that is embodied in the CD-ROM. *Id.*

A complete copy of a **published** CD-ROM package includes all the elements comprising the applicable unit of publication, “including elements that if considered separately would not be **copyrightable** subject matter or could be the subject of a separate registration.” *Id.*

Examples:

- A user manual.
- Installation instructions.
- Packaging that contains descriptive or instructional material.

If the CD-ROM is not the primary component of the published literary work, the applicant should submit two copies of the work as published.

Example:

- The applicant intends to register a workbook that contains text and illustrations together with a CD-ROM that is attached to the back cover. The CD-ROM is published with the workbook and it contains tests and other ancillary material. Because the workbook is the primary component of the published literary work, the applicant should submit two complete copies of the entire workbook package (including the CD-ROM).

If a member of the Registration Program is unable to view the CD-ROM using standard Office equipment, the Office may accept identifying material or alternative **deposit** materials under a grant of special relief (in addition to the complete CD-ROM package). See *id.* § 202.20(c)(2)(xix)(B). For information concerning this procedure, see Section 1508.8.

1509.1(I) Instructional Works

Instructional works include cookbooks, user guides or instructional manuals for a **computer program**, instructions for using a machine, appliance, or other device, and similar types of works. To register a **published** instructional work, the **applicant** generally should submit two **copies** or **phonorecords** of the **best edition** of the work.

By contrast, only one copy or phonorecord is required to register instructions for needlework or a craft kit, regardless of whether the work is published or **unpublished**. [37 C.F.R. § 202.20\(c\)\(2\)\(i\)\(J\)](#).

1509.1(J) Tests and Answer Material for Tests

To register a test or answer material for a test that was **published** in another literary work, the **applicant** should submit two complete copies of that literary work.

If the test or answer material for a test is **unpublished** or if it was not published with another literary work, the applicant should submit one complete copy of the test and/or answer sheets that the applicant intends to register. [37 C.F.R. § 202.20\(c\)\(2\)\(vi\)](#).

For a discussion of the **deposit** requirements for **secure tests** and secure test items, see [Chapter 700](#), Section 720.2.

1509.1(K) Deposit Requirements for Group Registration Options

The Office offers a **group registration** options for unpublished works, **serials**, newspapers, newsletters, contributions to periodicals, updates and revisions to a database, and test items prepared for use in a secure test. The deposit requirements for these options are discussed in the following sections:

- Unpublished works: [Chapter 1100](#), Section 1106.
- Serials: [Chapter 1100](#), Section 1107.
- Newspapers: [Chapter 1100](#), Section 1108.
- Newsletters: [Chapter 1100](#), Section 1109.
- Contributions to Periodicals: [Chapter 1100](#), Section 1110.
- Database Updates and Revisions: [Chapter 1100](#), Section 1112.

1509.1(L) Foreign Literary Works

To register an **unpublished** literary work that was created by a citizen or national of a foreign country, the **applicant** should submit one complete **copy** or **phonorecord** that contains all the authorship claimed on the application.

To register a literary work that was **published** solely in a foreign country, the applicant should submit one complete copy or phonorecord of the work as first published in that country. See [37 C.F.R. § 202.20\(c\)\(1\)\(iv\)](#).

If the work was first published in a foreign country and then subsequently published in the United States, the applicant may submit one complete copy or phonorecord of the work as first published in the foreign country. Alternatively, the applicant may submit one complete copy

or phonorecord of the **best edition** that was published in the United States, provided that the content of the U.S. edition is identical to the content of the foreign edition. *See id.*

1509.1(M) GATT Literary Works

The General Agreement on Tariffs and Trade (“GATT”) is an international trade agreement. To register a **published** literary work that was restored to copyright protection in the United States under GATT, the **applicant** may submit **deposit copy(ies)** in the following formats listed in descending order of preference:

1. The work as first published.
2. A reprint or rerelease of the work as first published.
3. A photocopy or identical reproduction of the work as first published.
4. A revised version which includes a substantial amount of the **copyrightable** content of the restored work with an indication in writing of the percentage of the restored work appearing in the revision.

See 37 C.F.R. § 202.12(c)(3)(i). For general information concerning GATT registrations, see **Chapter 2000**, Section 2007.

1509.1(N) Deposit Requirements for Literary Works: At a Glance

The following charts provide a brief summary of the deposit requirements for registering various types of **literary works**. For a detailed discussion of these requirements, see Sections **1509.1(A)** through **1509.1(M)** above.

If the **applicant** is unable to submit a deposit that satisfies these requirements, the applicant may ask for special relief. For information concerning this procedure, see Section **1508.8**.

General Requirements

Nature of the Work	Published	Unpublished
Unpublished works	n/a	One complete copy representing the entire copyrightable content
Works first published in the United States before 1/1/78	Two complete copies of the work as first published	n/a
Works first published in the United States between 1/1/78 and 3/1/89 that are not listed below	Two complete copies of the best edition of the work (including the copyright notice for the first published edition)	n/a

Works first published in the United States after 3/1/89 that are not listed below	Two complete copies of the best edition of the work	n/a
Works that are not listed below that are published solely in a foreign country	One complete copy of the work as first published in the foreign country	n/a
Works that are not listed below that are first published in a foreign country and subsequently published in the United States	One complete copy of the work as first published in the foreign country, or one complete copy of the best edition published in the United States if the content of the U.S. and foreign editions is identical	n/a
Literary works published solely in hard copy format that are not listed below	Two complete copies of the best edition of the work in hard copy format	n/a
Literary works published in hard copy and electronic format that are not listed below	Two complete copies of the best edition of the work in hard copy format	n/a
Literary works published solely in electronic format that are not listed below	See Section 1507.2	n/a

Monographs, Serials, Contributions to Collective Works, and Legal Publications

Nature of the Work	Published	Unpublished
Literary Monographs	One complete copy of the best edition of the work	One complete copy representing the entire copyrightable content
Serials	Two complete copies of the best edition of the serial	One complete copy representing the entire copyrightable content
Contributions to collective works other than newspapers	One complete copy of the best edition of the collective work, or a photocopy or other reproduction of the contribution as it was published in the collective work	One complete copy representing the entire copyrightable content
Contributions to newspapers	One complete section containing the contribution or a cut out of the contribution from the newspaper	One complete copy representing the entire copyrightable content
Legal Publications	Two complete copies of the best edition of the work	One complete copy representing the entire copyrightable content

Computer Programs

Nature of the Work	Published	Unpublished
Computer programs	Submit the first and last twenty-five pages (or equivalent units) of the source code. Additionally, a page or the equivalent unit that contains the notice (if any)	Submit the first and last twenty-five pages (or equivalent units) of the source code. Additionally, a page or the equivalent unit that contains the notice (if any)
Derivative computer programs	If revisions occur throughout the program, submit the first and last twenty-five pages of the source code. If revisions do not appear in the first or last twenty-five pages, submit fifty pages of source code containing revised material. In both cases, submit the page of the source code that contains the notice (if any).	If revisions occur throughout the program, submit the first and last twenty-five pages of the source code. If revisions do not appear in the first or last twenty-five pages, submit fifty pages of source code containing revised material. In both cases, submit the page of the source code that contains the notice (if any).
Computer programs that contain trade secrets	See Section 1509.1(F)(4)	See Section 1509.1(F)(4)
Computer programs fixed in CD-ROM format	One complete copy of the CD-ROM package and identifying portions of the source code for the program	One complete copy of the CD-ROM package and identifying portions of the source code for the program
Computer screen displays	See Section 1509.1(F)(6)	See Section 1509.1(F)(6)
User manuals and other documentation for a computer program	See Section 1509.1(F)(7)	See Section 1509.1(F)(7)

Databases

Nature of the Work	Published	Unpublished
Databases fixed in CD-ROM	One complete copy of the CD-ROM package	One complete copy of the CD-ROM package
Single-file databases	One copy of the first and last twenty-five pages or equivalent units of the database, together with a copy of the notice (if any) and a statement confirming that the work is a single-file database that does not require a descriptive statement	One copy of the first and last twenty-five pages or equivalent units of the database, together with a copy of the notice (if any) and a statement confirming that the work is a single-file database that does not require a descriptive statement

Multi-file databases	Fifty complete data records from each data file or the entire data file (whichever is less), together with a copy of the notice (if any), and a descriptive statement that contains the information set forth in Chapter 1100 , Section 1112.7(C), and that clearly identifies the creative authorship in the selection, coordination, and/or arrangement of the database	Fifty complete data records from each data file or the entire data file (whichever is less), together with a copy of the notice (if any), and a descriptive statement that contains the information set forth in Chapter 1100 , Section 1112.7(C), and that clearly identifies the creative authorship in the selection, coordination, and/or arrangement of the database
Revised single file databases	Fifty representative pages or data records that were added to or modified in the specific version of the database that the applicant intends to register, together with a copy of the notice (if any) and a statement confirming that the work is a single-file database that does not require a descriptive statement	Fifty representative pages or data records that were added to or modified in the specific version of the database that the applicant intends to register, together with a copy of the notice (if any) and a statement confirming that the work is a single-file database that does not require a descriptive statement
Revised multi-file databases	Fifty representative pages or data records that were added to or modified in the specific version of the database that the applicant intends to register, together with a copy of the notice (if any), and a descriptive statement that contains the information set forth in Chapter 1100 , Section 1112.7(C), and that clearly identifies the new authorship in the selection, coordination, and/or arrangement of the revised database	Fifty representative pages or data records that were added to or modified in the specific version of the database that the applicant intends to register, together with a copy of the notice (if any), and a descriptive statement that contains the information set forth in Chapter 1100 , Section 1112.7(C), and that clearly identifies the new authorship in the selection, coordination, and/or arrangement of the revised database
Databases consisting predominantly of photographs	See Section 1509.1(G)(3)	See Section 1509.1(G)(3)

Instructional Works and Tests

Nature of the Work	Published	Unpublished
Instructional works, such as cookbooks and user manuals that are not listed below	Two complete copies of the best edition of the work	One complete copy representing the entire copyrightable content
Instructions for needlework or craft kits	One complete copy of the best edition of the work	One complete copy representing the entire copyrightable content

Tests and answer material for tests	See Section 1509.1(J)	One complete copy representing the entire copyrightable content
Secure tests	See Chapter 700, Section 720.2	See Chapter 700, Section 720.2

Other Types of Literary Works

Nature of the Work	Published	Unpublished
Book jackets	One complete copy of the best edition of the jacket	One complete copy representing the entire copyrightable content
Lectures, sermons, speeches, and addresses	When published individually, one complete copy of the best edition of the work	One complete copy representing the entire copyrightable content
Literary works fixed on phonorecords	One complete phonorecord containing the best edition of the work	One complete phonorecord representing the entire copyrightable content
Two-dimensional games	One complete copy of the best edition of the game	One complete copy representing the entire copyrightable content
Games reproduced in three-dimensional objects	Identifying material representing the entire copyrightable content (unless the game consists of multiple parts that are packaged and published in container larger than twelve by twenty-four by six inches, in which case the applicant may submit one complete copy of the best edition in lieu of identifying material)	Identifying material representing the entire copyrightable content
Literary works fixed in a CD-ROM	See Section 1509.1(H)	See Section 1509.1(H)
Multimedia kits	One complete copy of the best edition of the kit	One complete copy representing the entire copyrightable content

Group Registration Options

Nature of the Work	Published	Unpublished
Group registration of unpublished works	n/a	See Chapter 1100, Section 1106.4
Group registration of serials	See Chapter 1100, Section 1107.5	n/a
Group registration of newspapers	See Chapter 1100, Section 1108.5	n/a
Group registration of newsletters	See Chapter 1100, Section 1109.5	n/a

Group registration of contributions to periodicals	See Chapter 100 , Section 110.5	n/a
Group registration of database updates or revisions	See Chapter 100 , Section 112.7	See Chapter 100 , Section 112.7

1509.2 Deposit Requirements for Works of the Performing Arts

The U.S. Copyright Office uses the term “**work of the performing arts**” to refer collectively to the following works of authorship:

- Musical Works, including any accompanying words.
- **Sound Recordings.**
- Dramatic Works, including any accompanying music.
- **Choreographic works.**
- **Pantomimes.**
- Audiovisual Works.
- **Motion Pictures.**

The Copyright Act does not define the term “work of the performing arts,” nor does it provide definitions for the majority of the works listed above. As a general matter, a work that was created to be performed “directly before an audience or indirectly by means of a device or process” is a work of the performing arts. **37 C.F.R. § 202.3(b)(1)(ii).**

To register a work that was first published in the United States on or after January 1, 1978, the applicant generally should submit two complete copy(ies) or phonorecord(s) of the best edition of that work. *See id.* **§ 202.20(c)(1)(iii).**

As discussed in Section **1504.2**, the criteria used to identify the best edition of a work are listed in the Best Edition Statement, which is set forth in **Appendix B to Part 202** of the Office’s regulations. It is also posted on the Office’s website in *Best Edition of Published Copyrighted Works for the Collections of the Library of Congress (Circular 7b)*.

To register a work published in both electronic and hard copy formats, the applicant should submit one or two complete copy(ies) or phonorecord(s) of the work in the hard copy format. If the work was published solely in electronic format, the applicant may submit digital file(s) containing one or two complete copy(ies) or phonorecord(s) of the work, provided that the requirements set forth in Section **1507.2** have been met.

There are exceptions to these rules for certain types of performing art works. The deposit requirements for these types of works are discussed in Sections **1509.2(A)** through **1509.2(F)**. The deposit requirements for performing arts works published in a foreign country are discussed in Sections **1509.2(H)** and **1509.2(I)**.

Section **1509.2(J)** contains a series of charts that summarize the deposit requirements for these types of works. For detailed information on the copyrightability and registration of works of the performing arts, see **Chapter 800**.

1509.2(A) Musical Works

This Section discusses the deposit requirement for **musical works**. This requirement varies depending on whether the work is **published** or **unpublished**, and whether it was published in **copies** or **phonorecords**.

Phonorecords are “material objects” in which sounds have been fixed “and from which the sounds can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.” **17 U.S.C. § 101**. Examples of physical phonorecords include compact discs, LPs, and cassette tapes. Examples of electronic phonorecords include digital audio files (such as .mp3 or .wav) stored on a computer, a flash drive, or other electronic device.

Copies are “material objects” (other than phonorecords) in which the work has been fixed “and from which the work can be perceived, reproduced, or otherwise communicated, either directly or with the aid of a machine or device.” *Id.* Examples of physical copies include printed formats (such as sheet music, a score, or a manuscript), as well as audiovisual formats (such as the soundtrack for a motion picture). Examples of electronic copies include digital files (such as .PDF, .DOC, .avi, or .mpeg) stored on a computer, a flash drive, or other electronic device.

1509.2(A)(1) Unpublished Musical Works

To register an **unpublished** musical work, the **applicant** should submit one complete **copy** or **phonorecord** of the work that contains all the authorship claimed on the application. This requirement may be satisfied by uploading an electronic file to the electronic registration system, provided that it is submitted in one of the acceptable file formats listed in Section **1508.1**.

1509.2(A)(2) Published Musical Works

The deposit requirement for published musical works varies depending on whether the work was first published in the United States or in a foreign country. It also varies depending on whether the work was published in copies, phonorecords, both copies and phonorecords, or solely in a motion picture. These requirements are discussed below in Sections **1509.2(A)(2)(a)** through **1509.2(A)(2)(d)**.

1509.2(A)(2)(a) Musical Works Published in the United States in Phonorecords

If the musical work was **published** in the United States solely on **phonorecords**, the **applicant** should submit one complete phonorecord containing the best edition of the published work. **37 C.F.R. § 202.20(c)(2)(i)(H)**.

1509.2(A)(2)(b) Musical Works Published in the United States in Copies

If the musical work was published in the United States solely in **copies**, the **applicant** should submit one complete copy of the best edition of that work.

Likewise, if the work was published both in copies and phonorecords that were distributed in the United States, the applicant should submit one complete copy of the best edition of that work. In other words, if the work was published on physical and electronic phonorecords (such as a compact disc or a digital audio file), and in physical or electronic copies (such as sheet music or PDF files), the applicant should submit one complete copy of the best edition, rather than submitting a phonorecord.

When a musical work has been published in both copies and phonorecords, the Office considers the copies to be the best representation of the work. Visually perceptible formats typically contain a clear and precise representation of the music and lyrics that constitute the work. When a preexisting musical composition is published in a phonorecord, the sound recording is a separate work that recasts, transforms, or adapts the music and lyrics embodied in that recording. *See* [17 U.S.C. § 101](#) (definition of “derivative work”). And in cases where the music and sound recording are created simultaneously, it may be difficult to identify the author or co-authors of the music and sound recording or the respective owners or co-owners of each work.

To be clear, when a musical work is published *solely* in a phonorecord, the phonorecord constitutes the only representation of the work. In such cases, the applicant should submit the phonorecord, as discussed in Section [1509.2\(A\)\(2\)\(a\)](#). There is no need to transcribe or notate the work in a visually perceptible form. *See* [Simplifying Deposit Requirements for Certain Literary Works and Musical Compositions](#), [82 Fed. Reg. 38,859, 38,862 \(Aug. 16, 2017\)](#); [Deposit Requirements: Proposed Rulemaking](#), [42 Fed. Reg. 59,302, 59,304 \(Nov. 16, 1977\)](#).

The Copyright Act defines the “best edition” as “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](#) (emphasis added). In other words, this definition only applies to editions of a work that exist at the time that the deposit is submitted to the U.S. Copyright Office. If the applicant submits a musical work on a phonorecord, and if the work is published in a printed copy sometime thereafter, there is no need to resubmit the work in its visually perceptible form. *See* [42 Fed. Reg. at 59,304](#).

The criteria used to determine the best edition for a copy of a musical work are listed in section VI of the “Best Edition Statement,” which is set forth in [Appendix B](#) to Part 202 of the Office’s regulations. The Best Edition Statement is also posted on the Office’s website in [Best Edition of Published Copyrighted Works for the Collections of the Library of Congress \(Circular 7b\)](#).

Specifically, if the musical work was published in a printed edition, the applicant should submit one complete copy of the work as published in that edition. If the work was published in multiple printed editions, the applicant should review the Best Edition Statement and should submit the edition that is listed highest on the list.

NOTE: There are two additional considerations for works published in the following formats:

- If the work was published as a full score and parts, the full score is considered the complete copy. *Id.* [§ 202.20\(b\)\(2\)\(vi\)\(A\)](#). If it was published as a conductor’s score and parts, the conductor’s score is considered the complete copy. *Id.* [§ 202.20\(b\)\(2\)\(vi\)\(B\)](#).

- If the musical work was published as a contribution to a collective work (such as a hymn published in a hymnal), the applicant may submit one complete copy of the collective work, or a photocopy of the work as it was published in the collective work. [37 C.F.R. § 202.20\(b\)\(2\)\(iv\)](#), [\(c\)\(2\)\(xv\)](#).

1509.2(A)(2)(c) Musical Works First Published in a Foreign Country

If the musical work was first **published** in a foreign country, and if the work was published in only one format, the applicant should submit one complete copy or phonorecord of the work as published in that format.

If the musical work was first published in a foreign country, and if the work was published in more than one format, the applicant should submit one complete copy or phonorecord of the first published edition. *See* [37 C.F.R. § 202.20\(c\)\(1\)\(iv\)](#).

If the musical work was first published in a foreign country, and then subsequently published in the United States, the applicant may submit one complete copy or phonorecord of the edition that was first published in the foreign country. Alternatively, the applicant may submit one complete copy or phonorecord of the “**best edition**” that was published in the United States, provided that the content of the U.S. edition is identical to the content of the foreign edition. *See id.* For information concerning the best edition requirement, see Sections [1509.2\(A\)\(2\)\(a\)](#) and [1509.2\(A\)\(2\)\(b\)](#).

1509.2(A)(2)(d) Musical Works Published Solely in Motion Pictures

If the musical work was **published** in the United States or a foreign country solely in a **motion picture**, the **applicant** may submit **identifying material** instead of submitting a copy of the actual motion picture. Specifically, the applicant may submit the following:

- A transcription of the entire musical work; or
- A reproduction of the entire musical work on a **phonorecord**, and photographs or other reproductions from the motion picture showing the title of the motion picture, the credits for the soundtrack, and the copyright **notice** for the soundtrack (if any).

See [37 C.F.R. §§ 202.20\(c\)\(2\)\(i\)\(I\)](#), [202.20\(c\)\(2\)\(xii\)](#), [202.21\(f\)](#).

1509.2(B) Sound Recordings

1509.2(B)(1) Unpublished Sound Recordings

To register an **unpublished sound recording**, the **applicant** should submit one complete **phonorecord** of the work that contains all of the authorship claimed on the application.

1509.2(B)(2) Published Sound Recordings

To register a **sound recording published** in the United States, the **applicant** should submit two complete phonorecords containing the best edition of the work. The criteria used to determine the best edition for a sound recording are listed in section V of the “Best Edition Statement,” which is set forth in **Appendix B to Part 202** of the Office’s regulations. The Best Edition Statement is also posted on the Office’s website in *Best Edition of Published Copyrighted Works for the Collections of the Library of Congress (Circular 7b)*.

The **deposit** for a **claim** in a sound recording is considered complete when it “includes the **phonorecord**, together with any printed or other visually perceptible material” that was published with the sound recording, such as cover art, liner notes, or the sound recording container. **37 C.F.R. §§ 202.19(b)(2); 202.20(b)(2)(v)**. For example, the Office will not accept a CD in a plain jewel case as the **deposit copy** for a claim in a published sound recording if the sound recording was marketed with cover art and liner notes.

1509.2(B)(3) Sound Recordings Published in Electronic Format

To register a **sound recording published** in the United States in both electronic and hard copy formats, the **applicant** should submit two complete phonorecords containing the **best edition** of the work in the hard copy format. If the sound recording was published solely in electronic format, the applicant may submit digital files containing a complete phonorecord of the work, provided that the requirements set forth in Section **1507.2** have been met.

1509.2(C) Dramatic Works

Dramatic works may be **fixed** in visually perceptible **copies** (e.g., a printed script), on **phonorecords** (e.g., an audio recording), or in a **motion picture** or other **audiovisual work**.

1509.2(C)(1) Unpublished Dramatic Works

To register an **unpublished** dramatic work, the **applicant** should submit one complete **copy** or **phonorecord** that contains all the authorship claimed in the application.

1509.2(C)(2) Published Dramatic Works

To register a dramatic work **published** in the United States in visually perceptible copies, the **applicant** generally should submit two complete copies of the best edition of the work. If the dramatic work was published solely in electronic form, the applicant may submit a digital file containing one complete copy of the work. *See* Section **1507.2**.

To register a dramatic work published on **phonorecords** in the United States, the applicant should submit one complete phonorecord containing the best edition of the work. As discussed in Section **1504**, the criteria used to determine the best edition for a particular work are listed in the “Best Edition Statement,” which is set forth in **Appendix B to Part 202** of the Office’s regulations. The Best Edition Statement is also posted on the Office’s website in *Best Edition of Published Copyrighted Works for the Collections of the Library of Congress (Circular 7b)*.

If the dramatic work was published in a **motion picture** in the United States and if the dramatic work and the motion picture are authored and/or owned by the same party, the applicant may satisfy the deposit requirements for both works by submitting one complete copy of the motion picture together with the separate written description described in Section **1509.2(F)(1)**. A separate copy of the screenplay is not required.

If the dramatic work and the motion picture are not authored or owned by the same party, the applicant may submit one complete copy of the screenplay together with the **identifying material** described in Section **202.21(f)** of the regulations in lieu of submitting an actual copy of the motion picture.

1509.2(D) Choreographic Works and Pantomimes

Choreographic works and **pantomimes** generally are fixed in visually perceptible copies, because these types of works are based on the physical movements of a person's body. The forms of **fixation** for choreography and pantomime typically include dance notation, **motion pictures**, textual descriptions, as well as drawings, illustrations, and/or photographs constituting the best edition of the work. See **Chapter 800**, Sections 805.3(D) and 806.3(D).

1509.2(D)(1) Unpublished Choreographic Works and Pantomimes

To register an **unpublished choreographic work** or **pantomime**, the **applicant** should submit one complete copy that contains all the authorship claimed on the application, regardless of the medium in which it is **fixed**.

1509.2(D)(2) Published Choreographic Works and Pantomimes

To register a choreographic work or **pantomime published** in a **motion picture**, the **applicant** should submit one complete copy of the **best edition** of the motion picture. **37 C.F.R. § 202.20(c)(2)(i)(I)**.

If the work was published in the United States in printed copies, the applicant generally should submit two complete copies of the best edition of the printed work. If the work was published solely in electronic form, the applicant may submit a digital file containing one complete copy of the work. See Section **1507.2**.

The criteria used to determine the best edition for a work published in printed copies are listed in section I of the “Best Edition Statement,” and the criteria for determining the best edition of a motion picture are listed in section III of the Statement. As discussed in Section **1504**, the Best Edition Statement is set forth in **Appendix B to Part 202** of the Office's regulations. It is also posted on the Office's website in *Best Edition of Published Copyrighted Works for the Collections of the Library of Congress* (Circular 7b).

1509.2(E) Audiovisual Works

The term “**audiovisual works**” encompasses many categories of works that are “inherently intended to be shown by the use of machines or devices . . .” **17 U.S.C. § 101**. **Motion pictures**

represent the largest category of audiovisual works; these types of works are discussed in Section 1509.2(F). The audiovisual components of computer **screen displays** are discussed in Section 1509.1(F)(6). For all other types of audiovisual works, the deposit requirements vary depending on whether the work has been **fixed** on a CD-ROM or another type of machine-readable copy.

1509.2(E)(1) Audiovisual Works Fixed in a CD-ROM

To register an **audiovisual work** that is **fixed** in a CD-ROM the **applicant** must submit one complete copy of the entire CD-ROM package, “including a complete copy of any accompanying operating software and instructional manual . . .” 37 C.F.R. § 202.20(c)(2)(xix)(A).

A complete copy of a **published** CD-ROM package includes all the elements comprising the applicable unit of publication, “including elements that if considered separately would not be copyrightable subject matter or could be the subject of a separate registration.” *Id.*

If a member of the Registration Program is unable to view the CD-ROM using standard Office equipment, the Office may accept alternative **deposit** materials under a grant of special relief (in addition to the complete CD-ROM package). *See id.* § 202.20(c)(2)(xix)(B).

If the work has been fixed in any other medium of expression, the applicant should refer to Section 1509.2(E)(2).

1509.2(E)(2) Audiovisual Works Fixed in Machine-Readable Copies Other Than a CD-ROM

To register an **audiovisual work** that has been **fixed** or **published** solely in machine-readable copies other than a CD-ROM, the **applicant** should submit identifying material, such as:

- A videotape or a series of photographs depicting representative portions of the **copyrightable** content of the work; and
- A separate synopsis of the work.

37 C.F.R. § 202.20(c)(2)(viii)(B). The applicant also may submit any packaging and/or instructional material that accompanies the pictorial images, if that material contains copyrightable authorship.

Examples of audiovisual works that fall within this category include arcade games and video-games that are not fixed on CD-ROMs.

In all cases, the applicant should include the title of the work on the identifying material. If the work has been published the applicant also should include the copyright **notice** for the work (if any). *Id.* § 202.20(c)(2)(viii).

Note: If the applicant is unable to submit identifying material using any of these options, the applicant may ask for special relief from the deposit requirements. For information concerning this procedure, see Section 1508.8.

1509.2(E)(3) Audiovisual Works Published in Electronic Format

To register an **audiovisual work published** in electronic and hard copy formats, the **applicant** should submit two complete copies of the **best edition** of the work in the hard copy format. If the audiovisual work was published solely in electronic format, the applicant may submit digital files containing a complete copy of the work, provided that the requirements set forth in Section **1507.2** have been met.

1509.2(F) Motion Pictures

This Section discusses the deposit requirements for **motion pictures** created or published on or after January 1, 1978. For information concerning motion pictures published before that date, see **Chapter 2100**. For information concerning a musical work that was published solely in a motion picture, see Section **1509.2(A)(2)(d)**.

To register an **unpublished** or **published** motion picture, the **applicant** should submit one complete copy of the work. **37 C.F.R. § 202.20(c)(2)(ii)**. In addition, the applicant should submit a separate written description of the nature and general content of the work, such as a continuity, pressbook, or synopsis. *Id.*

A copy of a **motion picture** is complete when “the reproduction of all of the visual and aural elements comprising the copyrightable subject matter in the work is clean, undamaged, undeteriorated, and free of splices, and if the copy itself and its physical housing are free of any defects that would interfere with the performance of the work or that would cause mechanical, visual, or audible defects or distortions.” **37 C.F.R. § 202.20(b)(2)(vii)**.

1509.2(F)(1) Unpublished Motion Pictures

To register an **unpublished motion picture**, the **applicant** should submit one complete copy of the work, together with a separate written description of the work. **37 C.F.R. § 202.20(c)(2)(ii)**.

As a general rule, the applicant may submit an unpublished motion picture in any format, provided that the registration specialist can examine the work using the Office’s standard equipment. For example, the applicant may upload a copy of the work through the electronic registration system, provided that it is submitted in one of the acceptable file formats discussed in Section **1508.1**, and provided that the registration specialist can examine the work using the Office’s standard equipment. Alternatively, the applicant may submit the work on a videodisc, such as a DVD, Blu-ray disc, CD-ROM, DVD-ROM, or on a flash drive.

1509.2(F)(2) Published Motion Pictures

To register a **published** motion picture, the **applicant** should submit one complete copy of the work as published, together with a separate written description of the work. See **37 C.F.R. § 202.20(c)(2)(ii)**.

The specific nature of the copy that should be submitted varies depending on whether the work was published in the United States or in a foreign country. These requirements are discussed below in Sections **1509.2(F)(2)(a)** and **1509.2(F)(2)(b)**.

1509.2(F)(2)(a) Motion Pictures Published in the United States on or After January 1, 1978

If the **motion picture** was **published** in the United States on or after January 1, 1978, the applicant should submit one complete copy of the best edition of that work.

The criteria used to determine the best edition for a motion picture are listed in Section III of the “Best Edition Statement,” which is set forth in **Appendix B** to Part 202 of the Office’s regulations. The Best Edition Statement is also posted on the Office’s website in *Best Edition of Published Copyrighted Works for the Collections of the Library of Congress (Circular 7b)*.

Specifically, if the motion picture was published in one of the formats listed immediately below the applicant should submit one complete copy of the work in the format that appears on this list. If the work was published in two or more of the formats listed immediately below, the applicant should submit the work in the format that is listed first. If the work was published in an electronic format and in one or more of the hard copy formats listed immediately below, the applicant should submit one complete copy of the hard copy format. *See 37 C.F.R. § 202.20(b)(1)*.

- Film Formats:
 1. Preprint material (by special arrangement)
 2. 70 mm positive print (if original production negative is greater than 35 mm)
 3. 35 mm positive prints
 4. 16 mm positive prints
- Video Formats:
 1. Betacam SP
 2. Digital Beta (Digibeta)
 3. DVD
 4. VHS Cassette

See 37 C.F.R. Part 202, Appendix B, Section III.

The following examples illustrate the appropriate method for identifying the “best edition” in cases where a motion picture was published in one or more of the formats listed immediately above.

- An animated film was published solely on a commercial DVD. The applicant should submit one complete copy of the commercial DVD.
- A major motion picture was published in 35mm film, a commercial DVD, and a VHS cassette. The applicant should submit one complete copy of the 35mm film, because film formats are preferred over video formats, such as DVD and VHS.
- A documentary was published on DVD and VHS cassette. The applicant should submit one complete copy of the DVD, because DVD formats are preferred over VHS.

- A comedy routine was published on a commercial DVD and published online as a digital download. DVDs are included on the list of preferred formats, but digital downloads are not. Therefore, applicant should submit one complete copy of the DVD.

In all cases, applicants should focus solely on the editions or formats that actually exist as of the date that the claim is filed. For instance, if the motion picture was published solely as a digital cinema package (DCP), there is no need to create a new edition on 35 mm film, digibeta, or any of the other formats listed on the Best Edition Statement.

If the motion picture was published in a format that is not listed on the Best Edition Statement, the applicant may request further guidance concerning the deposit requirements for registration by submitting a written request to the Office of Registration Policy & Practice. If the motion picture was published solely in a DCP format, the applicant may upload the work in any of the acceptable file formats listed in Section 1508.1, provided that the file does not exceed 500 megabytes. Alternatively, the applicant may submit one complete copy of the work on a DVD-R.

1509.2(F)(2)(b) Motion Pictures Published in a Foreign Country on or after January 1, 1978

If the **motion picture** was **published** solely in a foreign country on or after January 1, 1978, and if the work was published in only one format, the applicant should submit one complete copy of the work as published in that format.

If the motion picture was published solely in a foreign country, and if the work was published in more than one edition, the applicant should submit one complete copy of the first published edition. *See* 37 C.F.R. § 202.20(c)(1)(iv).

If the motion picture was first published in a foreign country, and then subsequently published in the United States, the applicant may submit one complete copy of the edition that was first published in the foreign country. Alternatively, the applicant may submit one complete copy of the “best edition” that was published in the United States, provided that the content of the U.S. edition is identical to the content of the foreign edition. *See id.* For information concerning the best edition requirement, see Section 1509.2(F)(2)(a).

1509.2(F)(3) Motion Pictures Contained in Formats That Cannot Be Viewed by the U.S. Copyright Office

The U.S. Copyright Office may not have equipment needed to examine a **motion picture** for copyrightable authorship. If so, the **registration specialist** may ask the **applicant** to resubmit the work in a different format.

Alternatively, the specialist may proceed with his or her examination without requesting a viewable copy of the motion picture, provided that (i) the applicant submitted a separate written description of the work, such as a continuity, press book, synopsis, or the final shooting script, and (ii) the written description sufficiently identifies the copyrightable material in the work, and includes the following information:

- The continuing title of the work and the episode title (if any);
- The nature and general content of the program and its dialog or narration (if any);

- The running time; and
- All credits appearing on the work, including the copyright **notice** (if any).

37 C.F.R. § 202.21(h).

1509.2(F)(4) The Motion Picture Agreement

The Library of Congress may, at its sole discretion, enter into an agreement permitting the return of copies of **published motion pictures** to the **applicant** under certain conditions and establishing certain rights and obligations with respect to such copies on the part of both the applicant and the Library. See 37 C.F.R. § 202.20(c)(2)(ii).

The current Motion Picture Agreement states that after a motion picture has been registered, the **deposit copy** will be returned to the applicant upon written request. However, the applicant may be required to resubmit a copy of the work for the Library's permanent collection within a period of two years. By signing the Agreement, the applicant agrees to provide the Library with a copy that meets the archival quality standards set forth in the Agreement in the event that the film is recalled. See **Deposit Requirements; Motion Pictures**, 43 Fed. Reg. 12,320, 12,322-24 (Mar. 24, 1978).

Applicants may request a copy of the Motion Picture Agreement by calling the Office's Motion Picture Team at (202) 707-8182.

1509.2(F)(4)(a) Who May Enter Into the Motion Picture Agreement?

The Motion Picture Agreement may be used by the owner of copyright in a **published** work or the owner of the **exclusive right** of publication (including the exclusive right to distribute the work in the United States). The Agreement only refers to works first published in the United States.

The Agreement may also be used by the owner of copyright in a work initially published outside the United States, but later published in this country prior to the date of deposit. Works published only outside the United States may be made subject to the Agreement if (i) the owner of copyright executes the Motion Picture Agreement together with the Standard Modification of the Agreement, and (ii) if that party has an established business office in the United States or has designated an agent in the United States with express authority to receive service in the event the Agreement is breached.

Applicants may request a copy of the Standard Modification of the Motion Picture Agreement by calling the Office's Motion Picture Team at (202) 707-8182.

1509.2(F)(4)(b) Who May Sign the Motion Picture Agreement?

The Motion Picture Agreement may be signed by an individual **applicant** or his or her legal representative. A business entity may sign the Agreement through a legal representative empowered to bind the entity, such as an officer of a corporation, an attorney for the applicant, or another agent who is satisfactory to the Library of Congress. In certain cases, the signing party may be required to complete the Standard Modification to the Motion Picture Agreement. Legal

representatives may also be required to sign a bond that subjects that party to certain liability under the Agreement.

1509.2(F)(4)(c) The Supplementary Property Agreement

If the **applicant** has entered into the Motion Picture Agreement the Office may accept a **deposit copy** in a format other than the **best edition** if the applicant signs the Supplementary Property Agreement. By signing the Supplemental Property Agreement, the applicant agrees to resubmit a best edition copy of archival quality if the Library of Congress demands a copy of the motion picture under the Motion Picture Agreement.

Applicants may request a copy of the Supplementary Property Agreement by calling the Office's Motion Picture Team at (202) 707-8182.

1509.2(F)(4)(d) Return of the Deposit Copy Under the Motion Picture Agreement

The U.S. Copyright Office will return the **deposit copy** to the **applicant** pursuant to the Motion Picture Agreement if the applicant submits a specific written request. In particular, if the applicant signs the Supplementary Property Agreement discussed in Section **1509.2(F)(4)(c)**, that document will be interpreted as a written request for the return of the deposit copy.

If the work is to be returned by a private courier designated by the applicant, the applicant should include shipping instructions with the request. The instructions should indicate that the motion picture is to be returned at the applicant's expense and it should include the name of the courier, an account number (if any), a declaration of value, and the amount of insurance required.

If the applicant requests, the motion picture will be shipped collect by means of a private courier chosen by the Library of Congress, with insurance coverage at the applicant's expense, to the amount of the declared value. If no value has been declared, the amount of the insurance will be based on the estimated replacement cost for a copy of identical physical characteristics produced by a commercial laboratory.

Unless the Office is otherwise directed in writing at the time of deposit, motion pictures will be returned to the applicant by Special Fourth Class Mail. In such cases, the Library of Congress does not assume any responsibility for providing insurance. Because of the high risk of loss with respect to certain films, the Office ordinarily will attempt to contact applicants who submit 35mm feature films, oversize deposits, and copies of special value for instructions for return by private courier at the applicant's expense.

1509.2(F)(4)(e) Recall of the Deposit Copy Under the Motion Picture Agreement

At any time within two years from the date of the initial deposit, the Library of Congress may make a written request that a copy of archival quality be submitted for its permanent collections under the terms of the Motion Picture Agreement. The party receiving the request must submit one complete copy of the film, meeting the standards set forth in Appendix A of the Agreement, to the Library at the address specified in the request within six months from the date of the recall.

1509.2(F)(4)(f) **Quality of the Copy Deposited Under the Motion Picture Agreement**

If an **applicant** has signed the Motion Picture Agreement and submits a **deposit copy** without requesting the return of that copy, the motion picture is considered a “non-agreement” film and is treated as though there is no Agreement on file.

The standards governing the quality of a non-agreement film are set forth in Sections **1509.2(F)(1)** and **1509.2(F)(2)**, and the special “archival quality” standards set forth in the Motion Picture Agreement and Appendix A thereto do not apply. That said, any copy recalled by the Library of Congress under the Agreement must meet all the technical guidelines set forth in Appendix A to the Agreement.

1509.2(F)(4)(g) **Termination of the Motion Picture Agreement**

The Library of Congress may terminate the Motion Picture Agreement for any good cause, including single or repeated instances involving a breach of the Agreement. If the Library terminates an Agreement, the termination applies only to motion pictures deposited after the termination, and does not affect the rights or obligations of either party with respect to any copies previously deposited or returned under the Agreement. If the Library terminates the Agreement, it will not reinstate the Agreement or enter into any similar or subsequent agreement with the **applicant** or its successors in interest, unless the Library determines in its sole discretion that doing so would be in the best interests of the Library. **37 C.F.R. § 202.20(c)(2)(ii)**.

1509.2(G) **Deposit Requirements for Group Registration Options**

The Office offers a **group registration** option for unpublished works. The deposit requirements for this option are discussed in **Chapter 100**, Section 1106.4.

1509.2(H) **Foreign Works of the Performing Arts**

To register an **unpublished** work of the performing arts that was created by a citizen or national of a foreign country, the **applicant** should submit one complete **copy** or **phonorecord** of the work that contains all the authorship claimed on the application.

To register a work of the performing arts that was **published** solely in a foreign country, the applicant should submit one complete copy or phonorecord of the work as first published in that country. **37 C.F.R. § 202.20(c)(1)(iv)**.

If the work was published in a foreign country and then subsequently published in the United States, the applicant may submit one complete copy or phonorecord of the work as first published in the foreign country. Alternatively, the applicant may submit one complete copy or phonorecord of the **best edition** that was published in the United States, provided that the content of the U.S. edition is identical to the content of the foreign edition. *See id.*

1509.2(I) GATT Works of the Performing Arts

GATT is an international trade agreement that extended copyright protection to certain classes of works that were in the **public domain** in the United States, such as **sound recordings** that were first **fixed** outside the United States before February 15, 1972. For information concerning the deposit requirements for such works, see Section **1509.1(M)**.

1509.2(J) Registration Deposit Requirements for Works of the Performing Arts: At a Glance

The following charts provide a brief summary of the deposit requirements for various types of works of the performing arts. For a detailed discussion of these requirements, see Sections **1509.2(A)** through **1509.2(I)** above.

If the **applicant** is unable to submit a deposit that satisfies these requirements, the applicant may ask for special relief. For information concerning this procedure, see Section **1508.8**.

General Requirements

Nature of the Work	Published	Unpublished
Unpublished works	n/a	One complete copy or phonorecord representing the entire copyrightable content
Works first published in the United States before 1/1/78	Two complete copies or phonorecords of the work as first published	n/a
Works first published in the United States between 1/1/78 and 3/1/89 that are not listed below	Two complete copies or phonorecords of the best edition of the work (including the copyright notice for the first published edition)	n/a
Works first published in the United States on or after 3/1/89 that are not listed below	Two complete copies or phonorecords containing the best edition of the work	n/a
Works that are not listed below that are published solely in a foreign country	One complete copy or phonorecord of the work as first published in the foreign country	n/a

Works that are not listed below that are first published in a foreign country and subsequently published in the United States that are not listed below	One complete copy or phonorecord of the work as first published in the foreign country or one complete copy of the best edition published in the United States if the content of the U.S. and foreign editions is identical	n/a
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Musical Works

Nature of the Work	Published	Unpublished
Unpublished musical works	n/a	One complete copy or phonorecord representing the entire copyrightable content
Musical works published in printed copies	One complete copy of the best edition of the work	n/a
Musical works published only in phonorecords	One complete phonorecord containing the best edition of the work	n/a
Musical works published in printed copies and phonorecords	One complete copy of the best edition of the work	n/a
Musical works published only in motion pictures	See Section 1509.2(A)(2)(d)	n/a
Musical works published solely in a physical format	One complete copy or one complete phonorecord containing the best edition of the work in the physical format	n/a
Musical works published in a physical and electronic format	One complete copy or one complete phonorecord containing the best edition of the work in the physical format	n/a
Musical works published solely in electronic format	See Sections 1507.2 and 1509.2(A)(2)	n/a
Musical works fixed in multimedia kits	One complete copy of the best edition of the kit	One complete copy representing the entire copyrightable content

Sound Recordings

Nature of the Work	Published	Unpublished
Sound recordings	Two complete phonorecords of containing the best edition of the work	One complete phonorecord representing the entire copyrightable content
Sound recordings published solely in hard copy format	Two complete phonorecords containing the best edition of the work in hard copy format	n/a
Sound recordings published in hard copy and electronic format	Two complete phonorecords containing the best edition of the work in hard copy format	n/a
Sound recordings published solely in electronic format	See Sections 1507.2 and 1509.2(B)(3)	n/a
Sound recordings fixed in multimedia kits	One complete phonorecord of the best edition of the kit	One complete copy representing the entire copyrightable content

Dramatic Works

Nature of the Work	Published	Unpublished
Dramatic works fixed in visually perceptible copies	Two complete copies of the best edition of the work	One complete copy representing the entire copyrightable content
Dramatic works fixed in phonorecords	One complete phonorecord of the best edition of the work	One complete phonorecord representing the entire copyrightable content
Dramatic works fixed in motion pictures	See Section 1509.2(C)(2)	One complete copy representing the entire copyrightable content
Dramatic works published solely in electronic format	See Sections 1507.2 and 1509.2(C)(2)	n/a

Choreographic Works and Pantomimes

Nature of the Work	Published	Unpublished
Choreographic works fixed in printed copies	Two complete copies of the best edition of the printed work	One complete copy representing the entire copyrightable content
Choreographic works fixed in motion pictures	One complete copy of the best edition of the motion picture	One complete copy representing the entire copyrightable content
Pantomimes fixed in printed copies	Two complete copies of the best edition of the printed work	One complete copy representing the entire copyrightable content

Pantomimes fixed in motion pictures	One complete copy of the best edition of the motion picture	One complete copy representing the entire copyrightable content
Choreographic works or pantomimes published solely in electronic format	See Sections 1507.2 and 1509.2(D)(2)	n/a

Audiovisual Works

Nature of the Work	Published	Unpublished
Computer screen displays	See Section 1509.1(F)(6)	See Section 1509.1(F)(6)
Audiovisual works fixed in a CD-ROM	One complete copy of the entire CD-ROM package	One complete copy of the entire CD-ROM package
Audiovisual works fixed in machine-readable copies other than a CD-ROM (e.g., arcade videogames)	Identifying material consisting of a videotape or a series of photographs depicting representative portions of the work together with a separate synopsis of the work	Identifying material consisting of a videotape or a series of photographs or drawings depicting representative portions of the work together with a separate synopsis of the work
Audiovisual works fixed in multimedia kits	One complete copy of the best edition of the kit	One complete copy representing the entire copyrightable content

Motion Pictures

Nature of the Work	Published	Unpublished
Motion pictures	See Section 1509.2(F)(2)	One complete copy of the work and a separate written description, or in the alternative, identifying material and a separate written description containing the information set forth in Section 1509.2(F)(1)
Motion pictures published solely in electronic format	See Section 1507.2	n/a

1509.3 Visual Arts Works

The U.S. Copyright Office uses the term “visual arts works” to refer collectively to the following types of works:

- Fine art.
- Graphic art.

- Photographs.
- Prints.
- Art reproductions.
- Maps and globes.
- Charts and diagrams.
- Technical drawings, including architectural plans.
- Models.
- Works of artistic craftsmanship.
- Applied art.
- Architectural works.

To register a work that was first published in the United States on or after January 1, 1978, the applicant generally should submit two complete copies of the best edition of that work. See [37 C.F.R. § 202.20\(c\)\(1\)\(iii\)](#).

As discussed in Section [1504.2](#), the criteria used to identify the best edition for a visual arts work are listed in the Best Edition Statement, which is set forth in [Appendix B to Part 202](#) of the Office's regulations. It is also posted on the Office's website in *Best Edition of Published Copyrighted Works for the Collections of the Library of Congress (Circular 7b)*.

To register a work published in both electronic and hard copy formats, the applicant generally should submit complete two copies of the work in the hard copy format. If the work was published solely in electronic format, the applicant may submit digital file(s) containing complete copy(ies) of the work, provided that the requirements set forth in Section [1507.2](#) have been met.

There are exceptions to these rules for certain types of visual arts works. The deposit requirements for these types of works are discussed in Sections [1509.3\(A\)](#) through [1509.3\(D\)](#). The deposit requirements for foreign visual arts works are discussed in Section [1509.3\(E\)](#). Section [1509.3\(F\)](#) contains a series of charts that summarize the deposit requirements for these types of works. For detailed information on the copyrightability and registration of visual arts works, see [Chapter 900](#).

1509.3(A) Two-Dimensional Visual Arts Works

1509.3(A)(1) Unpublished Works

To register an **unpublished** pictorial or graphic work, the **applicant** may submit **identifying material** instead of submitting an actual copy of the work. [37 C.F.R. § 202.20\(c\)\(2\)\(iv\)](#). For information concerning the requirements for identifying material, see Section [1509.3\(C\)](#).

NOTE: There is a limited exception to this rule for unpublished works **fixed** solely in a CD-ROM, which are discussed in Section **1509.3(A)(11)**.

1509.3(A)(2) Published Works

To register a pictorial or graphic work **published** in the United States, the **applicant** generally should submit two complete copies of the **best edition** of that work.

NOTE: There are several exceptions to this rule, that are discussed in Sections **1509.3(A)(3)** through **1509.3(A)(12)**.

1509.3(A)(3) Certain Limited Editions

This Section discusses the **deposit** requirements for certain visual arts works that are **published** in a limited edition.

If an individual author owns the copyright in the work, the **applicant** may submit one complete copy of the **best edition**, or in alternative, the applicant may submit **identifying material**, provided that one of the following conditions has been met:

- Less than five copies of the work have been published; or
- The work has been **published** and sold or offered for sale in a limited edition consisting of no more than 300 numbered copies.

37 C.F.R. § 202.20(c)(2)(iv). For information concerning the requirements for identifying material, see Section **1509.3(C)**.

1509.3(A)(4) Works Reproduced in Sheet-like Materials

This Section discusses the **deposit** requirements for pictorial or graphic works that are reproduced solely in “sheet-like material.” This category includes two-dimensional works that are **fixed** and/or **published** in the following types of material:

- Textiles and other fabrics.
- Wallpaper and similar commercial wall coverings.
- Carpeting.
- Floor tile, and similar commercial floor coverings.
- Wrapping paper and similar packaging material.

If a visual arts work has been reproduced solely on sheet-like material, the **applicant** should submit the following:

- One copy of a swatch or piece of material that is sufficient to show all of the elements of the work that are claimed in the application.
- A copy of the copyright **notice** (if any) that appears on the work or on tags, labels, or packaging for the work.

37 C.F.R. § 202.20(c)(2)(x).

If the work contains a repeating pictorial or graphic design, the applicant should submit a copy of the complete design together with a partial repeat of that design.

The applicant should submit a copy that shows the actual color(s) of the design, including any alternate color variations of the design.

Applicants should not submit CAD drawings as the sole form of deposit, because these types of drawings generally do not show the actual fixed or published design. When including CAD drawings in the deposit, the applicant should submit the drawings together with other **identifying material**, such as photographs or scanned images showing the actual work fixed in fabric or other sheet-like material or showing the actual published edition of the work.

The applicant should not submit CAD drawings or photos of the work if the copyright **claim** is based all or in part on the elevations, embroidery, tufts, looms, or other textural design aspects in carpet, wallpaper, or other sheet-like material. Instead, the applicant should submit an actual swatch or piece of material that shows the textural design aspects that are claimed in the application.

1509.3(A)(5) Published Greeting Cards, Picture Postcards, and Stationery

To register **published** greeting cards, picture postcards, or stationery, the **applicant** should submit one complete copy of the **best edition** of the work. **37 C.F.R. § 202.20(c)(2)(i)(C).**

1509.3(A)(6) Published Calendars, Decals, Fabric Patches, or Emblems

To register **published** calendars or two-dimensional decals, fabric patches, or emblems, the **applicant** should submit one complete copy of the **best edition** of the work. **37 C.F.R. § 202.20(c)(2)(i)(J).**

1509.3(A)(7) Published Games

A two-dimensional game may be registered as a work of the visual arts if the predominant form of authorship consists of pictorial or graphic authorship, such as board games, playing cards, and the like.

To register a two-dimensional game that has been published, the **applicant** should submit one complete copy of the best edition of the work.

See 37 C.F.R. § 202.20(c)(2)(i)(J); Part 202 — Registration of Claims to Copyright, Deposit Requirements, 43 Fed. Reg. 41,975, 41,976 (Sept. 19, 1978).

1509.3(A)(8) Published Needlework and Craft Kits

To register needlework or a craft kit, the **applicant** should submit one complete copy of the **best edition** of the work. **37 C.F.R. § 202.20(c)(2)(i)(J)**.

1509.3(A)(9) Published Commercial Prints, Labels, and Other Advertising Matter

To register prints, labels, and other advertising matter published in connection with the rental, lease, lending, licensing, or sale of services, articles of merchandise, or works of authorship, the **applicant** generally should submit one complete copy of the **best edition** of the work. **37 C.F.R. § 202.20(c)(2)(v)**.

If the print or label is published in a larger work, such as a newspaper or other periodical, the applicant may submit one copy of the entire page or pages where the work appears instead of submitting the entire larger work. *Id.*

If the print or label is physically inseparable from a three-dimensional object, the applicant generally must submit **identifying material** instead of submitting an actual copy of the work. *Id.* For information concerning the requirements for identifying material, see Section **1509.3(C)**.

NOTE: The rules discussed above do not apply to advertising material published in connection with **motion pictures**. The deposit requirements for such works are set forth in Section **1509.3(A)(2)**.

1509.3(A)(10) Pictorial or Graphic Works Reproduced on Three-Dimensional Containers or Holders

This Section discusses the deposit requirements for pictorial or graphic works reproduced on three-dimensional containers or holders, such as boxes, cases, and cartons, that can be readily opened out, unfolded, slit at the corners, or in some other way made adaptable for flat storage. The applicant should submit one copy of the work if the copy, when flattened, does not exceed ninety-six inches in any dimension. The applicant may submit **identifying material** if the copy, when flattened, exceeds ninety-six inches in any dimension. For information concerning the requirements for identifying material, see Section **1509.3(C)**.

37 C.F.R. § 202.20(c)(2)(i)(K), (c)(2)(xi)(B)(4).

1509.3(A)(11) Visual Arts Works Fixed in a CD-ROM

To register a pictorial or graphic work that is **fixed** in a CD-ROM the **applicant** must submit one complete copy of the entire CD-ROM package, regardless of whether the work is **published** or **unpublished**. If the work is fixed in print as well as the CD-ROM, the applicant also should submit a printed version of the work that is embodied in the CD-ROM. **37 C.F.R. § 202.20(c)(2)(xix)(A)**.

A complete copy of a published CD-ROM package includes all of the elements comprising the applicable unit of publication, “including elements that if considered separately would not be **copyrightable** subject matter or could be the subject of a separate registration” and “including a complete copy of any accompanying operating software and instructional manual.” *Id.*

If a member of the Registration Program is unable to view the CD-ROM using standard Office equipment, the Office may accept alternative **deposit** materials under a grant of special relief (in addition to the complete CD-ROM package). *See id.* § 202.20(c)(2)(xix)(B).

1509.3(A)(12) Deposit Requirements for Group Registration Options

The Office has established a procedure that allows copyright owners to register a groups of unpublished works, unpublished photographs, **published** photographs, or a database consisting predominantly of photographs with one application, one **filing fee**, and one set of deposit copies. The deposit requirements for these **group registration** options are discussed in **Chapter 1100**, Sections 1106.4, 1112.7, and 1114.4.

1509.3(B) Three-Dimensional Visual Arts Works

1509.3(B)(1) Identifying Material Required

When registering statues, carvings, ceramics, moldings, constructions, models, maquettes, or other three-dimensional sculptures, the **applicant** generally must submit **identifying material** instead of submitting an actual copy of the work, regardless of whether the work is **published** or **unpublished**. 37 C.F.R. § 202.20(c)(2)(xi)(A)(i). Likewise, the applicant generally must submit identifying material instead of submitting an actual copy of the work when registering jewelry, dolls, toys, or when registering any three-dimensional work that is embodied in a useful article. *Id.* § 202.20(c)(2)(xi)(A)(2). For information concerning the requirements for identifying material, see Section 1509.3(C).

NOTE: There are several exceptions to this rule, which are discussed in Section 1509.3(B)(2).

1509.3(B)(2) Actual Copy(ies) Permitted in Some Exceptional Cases

When registering the following types of works the **applicant** may submit one complete copy in lieu of **identifying material**:

- **Published** three-dimensional cartographic representations, such as globes and relief models. 37 C.F.R. § 202.20(c)(2)(i)(A).
- Three-dimensional sculptural works **fixed** or published solely in the form of jewelry cast in base metal that does not exceed four inches in any dimension. 37 C.F.R. § 202.20(c)(2)(i)(G), (c)(2)(xi)(B)(5).
- Games that include multiple three-dimensional parts that are packaged and published in a box or similar container with flat sides and with dimensions of no more than twelve by twenty-four by six inches. 37 C.F.R. § 202.20(c)(2)(i)(G), (c)(xi)(B)(3); *see also Part 202 – Registration of Claims to Copyright, Deposit Requirements*, 43 Fed. Reg. 41,975, 41,976 (Sept. 19, 1978).
- Three-dimensional visual arts works fixed or published in or on a useful article that comprises one of the elements of the unit of publication for an educational or instructional kit that also

includes a **literary work**, an **audiovisual work**, a **sound recording**, or any combination of such works. 37 C.F.R. § 202.20(c)(2)(i)(G), (c)(2)(xi)(B)(2).

NOTE: For all other three-dimensional works, the applicant must submit identifying material instead of submitting an actual copy of the work. For information concerning the requirements for identifying material, see Section 1509.3(C).

1509.3(C) Identifying Material

When registering a visual arts work with **identifying material**, the **applicant** should submit photographic prints, transparencies, photostats, drawings, or similar two-dimensional reproductions or renderings of the work in a form that is visually perceptible without the aid of a machine or device. See 37 C.F.R. § 202.21(a). The applicant should submit as many pieces of identifying material as necessary to show the entire **copyrightable** content of the work claimed in the application. *Id.* § 202.21(b). In addition, the applicant should include the title of the work on the front, back, or mount for at least one piece of identifying material. *Id.* § 202.21(d).

When registering a pictorial or graphic work, the identifying material should reproduce the actual colors employed in the work. In all other cases, the identifying material may be black and white or may consist of a reproduction of the actual colors. *Id.* § 202.21(a).

If the work has been **published** with a copyright **notice**, the location and content of the notice should be included on at least one piece of identifying material. *Id.* § 202.21(e). If the work was published without a notice, applicants may include any proprietary information concerning the owner, publisher, or distributor that was published on the work or on a tag, label, or packaging for the work.

NOTE: When registering a three-dimensional sculptural work **fixed** or published solely in the form of jewelry cast in base metal that exceeds four inches in any dimension, applicants are encouraged to submit photographs of the actual jewelry together with hand-drawn sketches or CAD drawings. If possible, applicants should eliminate reflected glare on the surface of the jewelry because it may inhibit the examination of the work. Because a registration only covers the copyrightable authorship that is clearly shown in the identifying material, applicants are also encouraged to submit images of the jewelry from multiple perspectives, such as front, back, top-down, bottom, and side views.

1509.3(D) Architectural Works

This Section discusses the **deposit** requirements for **published** or **unpublished architectural works**.

An “architectural work” is “the design of a building as embodied in any tangible medium of expression, including a building, architectural plans, or drawings. The work includes the overall form as well as the arrangement and composition of spaces and elements in the design, but does not include individual standard features.” 17 U.S.C. § 101. For information on the copyrightability and registrability of architectural works, see **Chapter 900**, Section 926.

In all cases, the applicant should submit one complete copy of an architectural drawing or blueprint in visually perceptible form showing the overall form of the building (*i.e.*, drawings of

the exterior elevations when viewed from the front, rear, sides, and top-down), and any interior arrangements of spaces and/or design elements in which copyright is claimed.

NOTE: The phrase “interior arrangements of spaces and/or design elements” refers to permanent, structural elements that define the arrangement of space within the interior of the building, rather than “interior design,” such as the selection and placement of furniture, lighting, paint, and similar items.

The Office prefers drawings comprised of the following material listed in descending order of preference:

1. Original format, or best quality form of reproduction, including offset or silk screen printing.
2. Xerographic or photographic copies on good quality paper.
3. Positive photostat or photodirect positive.
4. Blue line copies (diaz or ozalid process).

The drawings should include the following information (if known):

- The name(s) of the architect(s) and draftsman(s), and
- The building site.

See [37 C.F.R. § 202.20\(c\)\(2\)\(xviii\)\(A\)](#).

If the building has been constructed, the applicant also should submit photographs that clearly show the exterior and interior of the architectural work. See [id. § 202.20\(c\)\(2\)\(xviii\)\(B\)](#).

The applicant may submit the deposit in hard copy format or may upload the deposit in electronic format through the online registration system, provided that the requirements set forth in [Section 1507.2](#) have been met.

When uploading the deposit, the applicant should submit a separate file containing the name of the architect, draftsman, or copyright owner if that information appears in a proprietary legend in the margins of the blueprints or drawings.

1509.3(E) Foreign Visual Arts Works

1509.3(E)(1) Two-Dimensional Works

To register an **unpublished**, two-dimensional visual arts work that was created by a citizen or national of a foreign country, the **applicant** may submit **identifying material** instead of submitting an actual copy of the work. See [37 C.F.R. § 202.20\(c\)\(2\)\(iv\)](#). For information concerning the requirements for identifying material, see [Section 1509.3\(C\)](#).

To register a visual arts work that was **published** solely in a foreign country, the applicant should submit one complete copy of the work as first published in that country. [37 C.F.R. § 202.20\(c\)\(1\)\(iv\)](#).

If the work was published in a foreign country and then subsequently published in the United States, the applicant may submit one complete copy or phonorecord of the work as first published in the foreign country. Alternatively, the applicant may submit one complete copy of the **best edition** that was published in the United States, provided that the content of the U.S. edition is identical to the content of the foreign edition. *See id.*

NOTE: There are several exceptions to these rules, which are discussed in Sections 1509.3(A)(3) through 1509.3(A)(11).

1509.3(E)(2) Three-Dimensional Works

To register a three-dimensional work the **applicant** generally should submit **identifying material**, regardless of whether the **foreign work** is **published** or **unpublished**.

NOTE: There are several exceptions to these rules, which are discussed in Section 1509.3(B)(2).

1509.3(E)(3) GATT Visual Arts Works

GATT is an international trade agreement that extended copyright protection to certain classes of works that were in the **public domain** in the United States, such as works first **published** outside the United States before March 1, 1989 without a proper copyright **notice**. For information concerning the deposit requirements for such works, see Section 1509.1(M).

1509.3(F) Registration Deposit Requirements for Visual Arts Works: At a Glance

The following charts provide a brief summary of the deposit requirements for various types of visual arts works. For a detailed discussion of these requirements, see Sections 1509.3(A) through 1509.3(E) above.

If the **applicant** is unable to submit a deposit that satisfies these requirements, the applicant may ask for special relief. For information concerning this procedure, see Section 1508.8.

Two-Dimensional Visual Arts Works

Nature of the Work	Published	Unpublished
Unpublished works	n/a	Identifying material representing the entire copyrightable content
Pictorial or graphic works (<i>e.g.</i> , artwork, drawings, illustrations, paintings, posters, photographs, prints, brochures, exhibition catalogs) first published in the United States before 1/1/1978	Two complete copies of the work as first published	n/a

Pictorial or graphic works first published in the United States between 1/1/1978 and 3/1/1989 that are not listed below	Two complete copies of the best edition of the work (including the copyright notice for the first published edition)	n/a
Pictorial or graphic works first published in the United States after 3/1/1989 that are not listed below	Two complete copies of the best edition of the work	n/a
Works that are not listed below that are published solely in a foreign country	One complete copy of the work as first published in the foreign country	n/a
Works that are not listed below that are first published in a foreign country and subsequently published in the United States	One complete copy of the work as first published in the foreign country or one complete copy of the best edition published in the United States if the content of the U.S. and foreign editions is identical	n/a
“Limited edition” works published in quantities of five copies or fewer, or published in 300 numbered copies or fewer where the copyright is owned by an individual author	One complete copy of the best edition of the work or identifying material	n/a
Blueprints, architectural drawings, mechanical drawings, diagrams	One complete copy of the best edition of the work	Identifying material representing the entire copyrightable content
Two-dimensional maps or cartographic material	Two complete copies of the best edition of the work. If published in a CD-ROM, one complete copy of the CD-ROM package. If published in machine-readable format other than a CD-ROM, identifying material.	Identifying material representing the entire copyrightable content
Artwork reproduced only in fabric, wallpaper, carpeting, floor tile, wrapping paper, or other similar sheet-like materials	One complete copy in the form of an actual swatch or piece of such material sufficient to show all elements of the work in which copyright is claimed, and the copyright notice (if any)	Identifying material representing the entire copyrightable content
Greetings cards, picture postcards, stationery	One complete copy of the best edition of the work	Identifying material representing the entire copyrightable content
Calendars	One complete copy of the best edition of the work	Identifying material representing the entire copyrightable content

Two-dimensional fabric emblems or patches, decals or heat transfers (not applied to clothing), bumper stickers, campaign buttons	One complete copy of the best edition of the work	Identifying material representing the entire copyrightable content
Two-dimensional games	One complete copy of the best edition of the work	Identifying material representing the entire copyrightable content
Patterns, cross-stitch graphs, stitchery brochures, needlework, and craft kits	One complete copy of the best edition of the work	Identifying material representing the entire copyrightable content
Commercial prints, labels, or other advertising matter (e.g., flyer, label, brochure, or catalog used in connection with sale of goods or services)	One complete copy of the best edition of the work	Identifying material representing the entire copyrightable content
Commercial prints, labels, or other advertising matter published in a newspaper or other periodical	One copy of the entire page(s) of the periodical where the work appears	n/a
Commercial prints, labels, or other advertising matter inseparable from three-dimensional object (e.g., silk screen label on a bottle)	Identifying material representing the entire copyrightable content	Identifying material representing the entire copyrightable content
Advertising material published in connection with motion pictures	Two complete copies of the best edition of the work	n/a
Two-dimensional artwork reproduced on three-dimensional containers or holders	Identifying material (or one complete copy of the best edition of the work if the box or container is less than ninety-six inches in any dimension when flattened)	One complete copy or identifying material
Contributions to collective works other than newspapers, such as photographs, drawings, cartoons, and the like	One complete copy of the best edition of the collective work, or a photocopy or other reproduction of the contribution as it was published in the collective work	One complete copy or identifying material
Contributions to newspapers	One complete section containing the contribution or a cut-out of the contribution from the newspaper	One complete copy or identifying material
Works fixed only in a CD-ROM	One complete copy of the entire CD-ROM package	One complete copy of the entire CD-ROM package
Pictorial or graphic works fixed only in machine-readable format (other than a CD-ROM)	Identifying material representing the entire copyrightable content	Identifying material representing the entire copyrightable content

Group registration of unpublished works	n/a	See Chapter 1100 , Section 1106.4
Group registration of contributions to periodicals	See Chapter 1100 , Section 1110.5	n/a
Group registration of published photographs	See Chapter 1100 , Section 1114.4	See Chapter 1100 , Section 1114.4
Group registration of databases that consist predominantly of photographs	See Chapter 1100 , Section 1112.7	See Chapter 1100 , Section 1112.7

Three-Dimensional Visual Arts Works

Nature of the Work	Published	Unpublished
Unpublished works	n/a	Identifying material representing the entire copyrightable content
Published sculptural works (<i>e.g.</i> , statues, carvings, ceramics, moldings, constructions, models, maquettes) that are not listed below	Identifying material representing the entire copyrightable content	Identifying material representing the entire copyrightable content
Jewelry	Identifying material representing the entire copyrightable content (or one complete copy if the work is cast in base metal that is no more than four inches in any dimension)	Identifying material representing the entire copyrightable content
Dolls and toys	Identifying material representing the entire copyrightable content	Identifying material representing the entire copyrightable content
Games that include multiple three-dimensional parts	Identifying material representing the entire copyrightable content (or one complete copy of the best edition of the work if it is packaged in a box or similar container with flat sides and with dimensions of no more than twelve inches by twenty-four inches by six inches)	Identifying material representing the entire copyrightable content
Globes, relief models, or relief maps	One complete copy (including the stand, if any)	One complete copy (including the stand, if any)
Three-dimensional sculptural work (<i>e.g.</i> , a collector's doll, coin, or sculpture) in a box with copyrightable artwork and/or textual material with a claim in sculpture and artwork/text/photograph	Identifying material representing the entire copyrightable content of the sculptural work and the box (or one complete copy of the box if it is less than ninety-six inches in any dimension when flattened)	Identifying material representing the entire copyrightable content of the sculptural work and the box (or one complete copy of the box if it is less than ninety-six inches in any dimension when flattened)

Works attached to or embodied in a three-dimensional object	Identifying material representing the entire copyrightable content	Identifying material representing the entire copyrightable content
Works fixed or published in or on a useful article that comprises one of the elements of the unit of publication for an educational or instructional kit that also includes a literary work, an audiovisual work, a sound recording, or any combination of such works	One complete copy of the best edition of the work	One complete copy representing the entire copyrightable content

Architectural Works

Nature of Work	Published	Unpublished
Unconstructed buildings	See Section 1509.3(D)	See Section 1509.3(D)
Constructed buildings	See Section 1509.3(D)	See Section 1509.3(D)

1510 Storage of Deposits

This Section discusses the U.S. Copyright Office’s practices and procedures for storing **deposit copy(ies)** and **phonorecords**.

1510.1 Deposit Storage

Section 704(a) of the Copyright Act states that “[u]pon their deposit in the Copyright Office under **Sections 407** and **408**, all copies, phonorecords, and identifying material, including those deposited in connection with claims that have been refused registration, are the property of the United States Government.” **17 U.S.C. § 704(a)**.

Unpublished and **published deposit** materials that are submitted to the U.S. Copyright Office in a hard copy format are stored in offsite storage facilities, unless the **deposit copy(ies)** are selected by the Library of Congress for its collections or unless the deposit has been returned to the **applicant** under the Motion Picture Agreement. Unpublished deposit materials are stored for the entire term of copyright. Published deposit materials are currently stored for twenty years.

When the Office closes a file for a published or unpublished work without issuing a registration or refuses to register a work, the deposit materials are stored in accordance with the Office’s retention schedule.

*See generally **Simplifying Deposit Requirements for Certain Literary Works and Musical Compositions**, 82 Fed. Reg. 38,859 (Aug. 16, 2017).*

1510.2 Requests for Full-Term Deposit Storage for Published Works

Full-term retention of **published deposit copy(ies)** may be requested in certain circumstances. This option offers copyright owners the opportunity to ensure that **copies** or **phonorecords** of their works will remain in the custody of the U.S. Copyright Office for seventy-five years from the date of first **publication**. A request for full-term retention may be approved by the Office of Public Records and Repositories under the following conditions:

- The work is published;
- Copyright registration is approved;
- The appropriate fee is received; and
- The copy has been continuously in the custody of the U.S. Copyright Office.

See **37 C.F.R. § 202.23(a)-(c)**. The Office reserves the right to deny requests for full-term storage.

For information on how to request full-term storage of published **deposits**, see **Chapter 2400**, Section 2410.

1510.3 Requests for Inspection or Copies of Deposits

Upon request, any member of the public may inspect the **deposit copy(ies)** or **identifying material** for a work that has been registered or refused by the U.S. Copyright Office. Certain parties may request a certified or uncertified copy of the deposit copy(ies) or identifying material for a copyright claim, provided that the party satisfies the conditions set forth in the Office's regulations.

For information concerning these procedures, see **Chapter 2400**, Section 2407.

1511 Mandatory Deposit

As discussed above in Section 1502, the Copyright Act establishes two separate deposit requirements. **Section 408** specifies the deposit requirements for registering a work with the U.S. Copyright Office, while **Section 407** specifies the requirements for depositing a work with the Library of Congress.

Section 407 states that “the owner of copyright or of the exclusive right of publication in a work published in the United States shall deposit [with the U.S. Copyright Office], within three months after the date of such publication – two complete copies of the best edition” “for the use or disposition of the Library of Congress.” **17 U.S.C. § 407(a)(1), (b)**. In the case of a **sound recording** published in the United States, **Section 407** states that the copyright owner or the owner of the exclusive right of publication shall deposit “two complete phonorecords of the best edition, together with any printed or other visually perceptible material published with such phonorecords.” **17 U.S.C. § 407(a)(2)**. This is known as the “mandatory deposit requirement.”

Submitting a published work for the use or disposition of the Library is not a condition of copyright protection. However, the **Register of Copyrights** may facilitate, demand, negotiate, or exempt the provision of copies or phonorecords for the Library of Congress at any time after

a work has been published in the United States. If the Office issues a written demand and if required copies or phonorecords are not received within three months of receipt of the demand, the copyright owner or owner of the exclusive right of publication in that work may be subject to fines or other monetary liability. **17 U.S.C. § 407(d)**.

In most cases, the owner of copyright or the exclusive right of publication may satisfy the mandatory deposit requirement by submitting an application to register the work, provided that the **applicant** submits two complete copies or two complete phonorecords of the **best edition**. Alternatively, the owner of copyright or the exclusive right of publication may submit the required number of copies or phonorecords without an application.

If the applicant registered a published work with identifying material instead of submitting the best edition, the Library of Congress may demand an appropriate number of copies of the best edition under certain circumstances.

Some categories of works are exempt from the mandatory deposit requirement, even if a work has been published. See **H.R. REP. NO. 94-1476, at 150 (1976)**, reprinted in 1976 U.S.C.C.A.N. 5659, 5766 (“deposit of copies or phonorecords for the Library of Congress is mandatory, but exceptions can be made for material the Library neither needs nor wants”). For information concerning these exceptions, see Section **1511.3**.

By contrast, some works — namely, transmission programs — are subject to mandatory deposit, regardless of whether the work is **published** or **unpublished**. For information concerning transmission programs, see Section **1511.5**.

1511.1 What Is the Best Edition for Purposes of Mandatory Deposit?

The “**best edition**” for purposes of mandatory deposit is defined as “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; 37 C.F.R. § 202.19(b)(1)(i)**.

The criteria used to identify the best edition for a particular work are listed in the Best Edition Statement, which is set forth in Appendix B to Part 202 of the Office’s regulations. **37 C.F.R. pt. 202, app. B**. It is also posted on the Office’s website in *Best Edition of Published Copyrighted Works for the Collections of the Library of Congress (Circular 7b)*.

The Best Edition Statement contains a hierarchical list of formats that the Library prefers. Generally, if the work was published in two or more editions, the edition that is the highest quality is considered to be the “best” edition. “In judging quality, the Library of Congress will adhere to the criteria set forth [in the Best Edition Statement] in all but exceptional cases.” **37 C.F.R. pt. 202, app. B**.

If the Best Edition Statement does not provide specific criteria for selecting the best edition of the work, the edition that “in the judgment of the Library of Congress, represents the highest quality for its purposes shall be considered the ‘best edition.’” **37 C.F.R. § 202.19(b)(1)(iii)**. If the copyright owner or owner of **exclusive rights** is uncertain as to whether a particular published edition constitutes the best edition, that party should contact the Office’s Copyright Acquisitions Division at (202) 707-7125. **37 C.F.R. § 202.19(b)(1)(iii)(B)**.

1511.2 What Is a Complete Copy or Phonorecord for Purposes of Mandatory Deposit?

1511.2(A) Complete Copy of a Published Work

A copy is “complete” for purposes of mandatory deposit if it contains “all elements comprising the unit of publication of the best edition of the work, including elements that, if considered separately, would not be copyrightable subject matter or would otherwise be exempt from the mandatory deposit requirement.” [37 C.F.R. § 202.19\(b\)\(2\)](#).

1511.2(B) Sound Recordings

In the case of a **sound recording published** in the United States, a phonorecord is “complete” if it “includes the phonorecord, together with any printed or other visually perceptible material published with such phonorecord (such as textual or pictorial matter appearing on record sleeves or album covers, or embodied in leaflets or booklets included in a sleeve, album, or other container).” [37 C.F.R. § 202.19\(b\)\(2\)\(i\)](#).

1511.2(C) Musical Compositions Published by Rental, Lease, or Lending

In the case of a musical composition **published** in the United States solely “by the rental, lease, or lending of a full score and parts,” the full score is considered a “complete” copy. [37 C.F.R. § 202.19\(b\)\(2\)\(ii\)\(A\)](#). If the work was published solely “by the rental, lease, or lending of a conductor’s score and parts,” the conductor’s score is considered a “complete” copy. *Id.* [§ 202.19\(b\)\(2\)\(ii\)\(B\)](#).

1511.2(D) Motion Pictures

In the case of a **motion picture published** in the United States, a copy is “complete” if “the reproduction of all the visual and aural elements comprising the **copyrightable** subject matter in the work is clean, undamaged, undeteriorated, and free of splices, and if the copy itself and its physical housing are free of any defects that would interfere with the performance of the work or that would cause mechanical, visual, or audible defects or distortions.” [37 C.F.R. § 202.19\(b\)\(2\)\(iii\)](#).

1511.2(E) Electronic Works

In the case of an electronic work **published** in the United States that is available only online, a copy is “complete” “if it includes all elements constituting the work in its published form, *i.e.*, the complete work as published, including metadata and formatting codes otherwise exempt from mandatory deposit.” [37 C.F.R. § 202.19\(b\)\(2\)\(iv\)](#).

Online-only works are exempt from the mandatory deposit requirement, except for electronic serials that have been demanded by the U.S. Copyright Office. [37 C.F.R. §§ 202.19\(c\)\(5\), 202.24; Mandatory Deposit of Published Electronic Works Available Only Online, 75 Fed. Reg. 3863, 3865 \(Jan. 25, 2010\)](#).

1511.3 Works Exempt from Mandatory Deposit

The mandatory deposit requirement only applies to works **published** in the United States. **Unpublished** works and works that are published solely outside the United States are not subject to this requirement.

Mandatory deposit does apply to works that are published simultaneously in both a foreign country and in the United States. It applies to works that are first published in a foreign country and then subsequently published or distributed in this country. It also may apply to unpublished transmission programs transmitted in the United States. For information concerning **foreign works**, see Section 1511.4. For information concerning transmission programs, see Section 1511.5.

Section 407 also states that the **Register of Copyrights** “may by regulation exempt any categories of material from the deposit requirements of this section, or require deposit of only one copy or phonorecord with respect to any categories.” **17 U.S.C. § 407(c)**. The Office has issued exemptions for the following categories of works:

- Electronic works published in the United States that are available only online. **37 C.F.R. § 202.19(c)(5)**. For purposes of mandatory deposit, “electronic works” are defined as “works fixed and published solely in an electronic format.” **37 C.F.R. § 202.24(c)(3)**.

This exemption applies to electronic **serials** that are available only online, unless the Office issues a demand for a particular serial under **Section 202.24** of the regulations. For information concerning electronic serials, see Sections 1511.6.

NOTE: This exemption does not apply to works that are published in the United States in both electronic formats and physical formats.

- Tests and answer material for tests when published separately from other **literary works**. **37 C.F.R. § 202.19(c)(8)**.
- Lectures, sermons, speeches, and addresses when published individually and not as part of a collection of the works of one or more authors. **37 C.F.R. § 202.19(c)(3)**.
- Works first published as an individual contribution to a **collective work**. **37 C.F.R. § 202.19(c)(9)**.

NOTE: This exemption does not apply to the copyright owner or owner of the **exclusive right of publication** in the collective work as a whole.

- Literary, dramatic, and musical works published only in phonorecords. **37 C.F.R. § 202.19(c)(4)**.

NOTE: This exemption only applies to the literary, dramatic, or musical work that is embodied in a **sound recording**. The copyright owner or the owner of the exclusive right of publication in a sound recording, which results from the **fixation** of such works is subject to the mandatory deposit requirement if the sound recording is published in the United States.

- Works published only in a soundtrack that is an integral part of a **motion picture**. **37 C.F.R. § 202.19(c)(11)**.

NOTE: This exemption does not apply to the copyright owner or the owner of the exclusive right of publication in a motion picture.

- Motion pictures that consist of television transmission programs and that have been published, if at all, only by reason of a **license** or other grant to a nonprofit institution of the right to make a fixation of such programs directly from a transmission to the public, with or without the right to make further uses of such fixations. **37 C.F.R. § 202.19(c)(12)**.
- Diagrams and models illustrating scientific or technical works or formulating scientific or technical information in linear or three-dimensional form, such as architectural or engineering blueprints, plans, or designs, mechanical drawings, or anatomical models. **37 C.F.R. § 202.19(c)(1)**.
- Greeting cards, picture postcards, and stationery. **37 C.F.R. § 202.19(c)(2)**.
- Prints, labels, and other advertising materials, including catalogs, published in connection with the rental, lease, lending, licensing, or sale of services, articles of merchandise, or works of authorship. **37 C.F.R. § 202.19(c)(7)**.
- Three-dimensional sculptural works. **37 C.F.R. § 202.19(c)(6)**.
- Works reproduced and published only in or on jewelry, dolls, toys, games, plaques, floor coverings, wallpaper and similar commercial wall coverings, textiles and other fabrics, packaging material, or any useful article. *Id.*

If a **published** work is subject to the mandatory deposit requirement, the copyright owner or owner of exclusive rights may submit a request for special relief from this requirement. For information concerning special relief, see Section **1511.9**.

1511.4 Mandatory Deposit for Works Published Outside the United States

Works published solely in a foreign country are not subject to the mandatory deposit requirement.

As a general rule, works that are published both in a foreign country and in the United States are subject to mandatory deposit. However, works that are published abroad and subsequently published in the United States without any change in the copyrightable content of the work are exempt from mandatory deposit if the following conditions have been met:

- The work was registered with the U.S. Copyright Office before it was published in the United States; or
- The work was registered after it was published in the United States but before the Office issued a demand for the work under **Section 407(d)** of the Copyright Act.

37 C.F.R. § 202.19(c)(10).

1511.5 Mandatory Deposit for Unpublished Transmission Programs

Most **unpublished** works are exempt from the mandatory deposit requirement, although there is a limited exception to this rule. Specifically, the **Register of Copyrights** may issue a written demand for a copy or **phonorecord** of an audio or audiovisual transmission program for the

use or disposition of the Library of Congress, even if that program is unpublished. [17 U.S.C. § 407\(e\)](#); [37 C.F.R. § 202.22\(d\)](#).

A “transmission program” is defined as “a body of material that, as an aggregate, has been produced for the sole purpose of transmission to the public in sequence and as a unit.” [17 U.S.C. § 101](#). This category includes audio or audiovisual transmissions made “via the Internet, cable, broadcasting, and satellite systems and via any other existing or future devices or processes for the communication of a performance or display whereby images or sounds are received beyond the place from which they are sent.” [37 C.F.R. § 202.22\(b\)\(1\)](#).

For additional information concerning this procedure, see [37 C.F.R. § 202.22\(d\)](#).

1511.6 Mandatory Deposit for Electronic Serials

As a general rule, the mandatory deposit requirement does not apply to electronic works **published** in the United States that are available only online. However, there is a limited exception to this rule.

The copyright owner or owner of the **exclusive right of publication** in an electronic serial published on or after February 24, 2010 is subject to mandatory deposit if the Office issues a written demand for a copy of that work for the use or disposition of the Library of Congress. See [37 C.F.R. §§ 202.19\(c\)\(5\), 202.24\(a\)](#).

For purposes of mandatory deposit, an “electronic serial” is defined as “an electronic work published in the United States and available only online, issued or intended to be issued on an established schedule in successive parts bearing numerical or chronological designations, without subsequent alterations, and intended to be continued indefinitely.” *Id.* [§ 202.19\(b\)\(4\)](#). (For a definition of the term “electronic work,” see Section [1511.3](#).)

The Register has promulgated an interim rule for this category of works. A serial is a work issued or intended to be issued in successive parts bearing numerical or chronological designations and intended to be continued indefinitely. The class includes periodicals (including newspapers), annuals, and the journals, proceedings, transactions, and other publications of societies. [37 C.F.R. § 202.3\(b\)\(1\)\(v\)](#). It does not include works that are published both online and in physical form. Likewise, it does not include works that are constantly updated with no demarcation between particular, discrete issues of the publication. See [Mandatory Deposit of Published Electronic Works Available Only Online, 75 Fed. Reg. 3863, 3865 \(Jan. 25, 2010\)](#).

For additional information concerning this procedure, see [37 C.F.R. § 202.24](#). For information concerning serials that are published in a physical form or both online and in a physical form, see Section [1511.8\(B\)](#).

1511.7 How to Submit Mandatory Deposits

This Section discusses the procedure for submitting copies or **phonorecords** to the U.S. Copyright Office for the purpose of mandatory deposit.

1511.7(A) Copies or Phonorecords Submitted with an Application for Registration

As a general rule, the copyright owner or owner of the **exclusive right of publication** in a published work may satisfy the mandatory deposit requirement by registering that work with the U.S. Copyright Office. See **17 U.S.C. § 408(b)(2)**. To do so, the **applicant** should submit a completed application, the appropriate **filing fee**, and the appropriate number of complete **copy(ies)** or **phonorecord(s)** of the **best edition** of the work.

For guidance in completing an application and for information concerning the filing fee, see **Chapters 600** and **1400**. For guidance in submitting the deposit copies or phonorecords for an application, see Section **1508**.

1511.7(B) Copies or Phonorecords Submitted without an Application for Registration

For some categories of works the deposit requirements for registration and mandatory deposit are not the same, such as works that may be registered with **identifying material** or with a grant of special relief. In such cases, a separate submission of **copies, phonorecords**, or identifying material may be needed to register the work and to satisfy the mandatory deposit requirements. If so, the copyright owner or owner of the **exclusive right of publication** may satisfy the mandatory deposit requirement by submitting the required number of copies or phonorecords of the **best edition** to the following address:

Library of Congress
U.S. Copyright Office
Attn: 407 Deposits
101 Independence Avenue SE
Washington, D.C. 20559

As discussed in Section **1508.6**, all mail that is sent to the Office is screened offsite for anthrax or other contaminants prior to delivery. In some cases this screening process may damage the deposit. If so, the Office will request a replacement deposit. To avoid damage to the deposit, the party submitting the deposit should follow the guidelines discussed in Section **1508.6(B)**.

1511.7(C) Copies or Phonorecords Submitted in Response to a Demand Notice

As discussed in Section 1511, the **Register of Copyrights** may issue a written demand for **copies** or phonorecords of any work **published** in the United States that is subject to the mandatory deposit requirement. A demand may be made at any time after the work has been published. **17 U.S.C. § 407(d)**.

If a copyright owner or owner of the **exclusive right** of publication receives a demand for mandatory deposit, that party should submit the required number of copies or phonorecords to the address specified in the demand notice within three months after the demand is received.

Alternatively, a copyright owner or owner of exclusive rights may respond by submitting the required copies or phonorecords together with an application to register the work and the appropriate **filing fee**.

- When completing an online application, the **applicant** should print one or more copies of the deposit copy shipping slip using the procedure discussed in Section 1508.2. The applicant should attach the demand notice and the **shipping slips** directly to the deposits, and should send all of these items in a single package to the address specified on the shipping slip.
- When completing a paper application, the applicant should attach the demand notice, the completed application, and the nonrefundable filing fee directly to the deposit, and should send all of these items to the following address:

Library of Congress
 U.S. Copyright Office – CAD/AD
 101 Independence Avenue SE
 Washington, DC 20559-6601

NOTE: In all cases, the demand notice should be placed on top of the items in the package so that it is visible when the package is opened.

If the copyright owner or owner of exclusive rights submits the copies or phonorecords to the address specified in the demand notice without submitting an application, the appropriate filing fee, and/or the shipping slips, the Office will assume that the deposit was submitted solely for the purpose of satisfying the mandatory deposit requirement. The Office will not connect the copies or phonorecords with a separately submitted application nor will the Office hold the copies or phonorecords pending the receipt of an application. *See* 37 C.F.R. § 202.19(f)(1).

If the required deposit copies or phonorecords are not received in a timely manner, the party that received the demand notice may be subject to the following penalties:

- To pay a fine of not more than \$250 for each work; and
- To pay the total retail price of the copies or phonorecords demanded into a specially designated fund in the Library of Congress, or if no retail price has been **fixed**, the reasonable cost to the Library of Congress of acquiring such copies or phonorecords; and
- To pay a fine of \$2,500, in addition to any fine or liability imposed above, if the party willfully or repeatedly fails or refuses to comply with the demand.

17 U.S.C. § 407(d).

1511.7(D) Certificate of Receipt

Upon request, the Office will issue a certificate of receipt for **copies** or **phonorecords** that are submitted for the purpose of mandatory deposit, provided that the request is made at the time of the deposit. Thereafter, the Office will issue a certificate of receipt only if the request is made by the party that is identified in the Office’s records as the party that submitted the copies or phonorecords. The certificate will provide the following information:

- The depositor.
- The work deposited.

- The nature and format of the copy or phonorecord deposited.
- The date of receipt.

17 U.S.C. § 407(b); 37 C.F.R. § 202.19(f)(3).

In all cases, the request for a certificate of receipt must be made in writing and must be accompanied by the appropriate fee, which is set forth in the Office’s **fee schedule** under the heading marked “Receipt for deposit without registration (section 407 deposit).”

1511.8 Mandatory Deposit Requirements for Specific Categories of Works

To satisfy the mandatory deposit requirement, copyright owners and owners of the **exclusive right** of **publication** generally should submit two complete copies of the **best edition** of the work, or in the case of a **sound recording**, two complete **phonorecords** of the best edition. See 37 C.F.R. § 202.19(d)(1)(i), (ii). For a definition and discussion of the terms “best edition,” “complete copy,” and “complete phonorecord,” see Sections 1504 and 1505.

There are several exceptions to this rule. For certain types of works, a party may submit (i) one copy or phonorecord instead of two, (ii) the work as first published instead of the best edition of the work, (iii) **identifying material** instead of copies or phonorecords, or (iv) in the case of a serial publication, two complimentary subscriptions to the work. The specific exceptions for literary works, works of the performing arts, and visual arts works are set forth in Sections 1511.8(A) through 1511.8(J).

1511.8(A) Literary Monographs

As a general rule, a party may satisfy the mandatory deposit requirement for a literary monograph by submitting one complete copy of the best edition of the work. 37 C.F.R. § 202.19(d)(2)(ix).

NOTE: This rule does not apply to serials, which are defined as works “issued or intended to be issued in successive parts bearing numerical or chronological designations and intended to be continued indefinitely.” 37 C.F.R. § 202.3(b)(1)(v). Likewise, it does not apply to legal publications, which are defined as works that contain legislative enactments, judicial decisions, or other edicts of government. 37 C.F.R. § 202.19(b)(5). To satisfy the mandatory deposit requirement for a legal publication, a party must submit two complete copies of the best edition. For information concerning the mandatory deposit requirements for serials, see Section 1511.8(B).

In some cases, the Library of Congress may need two copies of a literary monograph, particularly if there is high demand for the work from Congress, the Congressional Research Service, the Supreme Court, or the general public. If so, the Library may demand an additional copy under Section 407(d) of the Copyright Act. See *id.*

For example, the Library generally needs two copies of any reference work published in the United States, such as a dictionary, encyclopedia, gazetteer, bibliography, or almanac. Likewise, it generally needs two copies of any literary monograph published in the United States that focuses on the following subjects:

U.S. history (including works bearing Library of Congress Cataloging in Publication (“CIP”) subject headings for “U.S. history,” “U.S. local history,” “genealogy,” “heraldry,” or a Library of Congress classification containing the letters CR, CS, E, or F below 1000).

Commerce or finance (including works bearing Library of Congress CIP subject headings for “commerce,” “finance,” “public finance,” or a Library of Congress classification containing the letters HF, HG, or HJ).

Political institutions and public administration (including works bearing Library of Congress CIP subject headings for “political institutions and public administration (North America or United States),” or a Library of Congress classification containing the letters JJ or JK).

Libraries or information science (including works bearing Library of Congress CIP subject headings for “libraries,” “books,” “information resources,” “bibliographies,” or a Library of Congress classification containing the letter Z).

*See **Simplifying Deposit Requirements for Certain Literary Works and Musical Compositions**, 82 Fed. Reg. 38,859, 38,861 & nn. 10-13 (Aug. 16, 2017).*

1511.8(B) Serials Published in a Physical Format

For purposes of mandatory deposit, a “serial” is defined as a work “issued or intended to be issued in successive parts bearing numerical or chronological designations and intended to be continued indefinitely.” **37 C.F.R. § 202.3(b)(1)(v)**. As a general rule, a party may satisfy the mandatory deposit requirement for a serial that has been published in a physical format by providing the Library of Congress with two complimentary subscriptions to that publication.

NOTE: This rule only applies to serials that have been published in a physical format, or in both a physical and electronic format. It does not apply to electronic serials that are published solely online. Nor does it apply to newspapers (regardless of whether they are published in physical or electronic form). For information concerning the mandatory deposit requirements for these types of serials, see Section **1511.6** and **1511.8(C)**.

Before the subscriptions begin, the copyright owner or the owner of the exclusive right of publication should send a letter to the Copyright Acquisitions Division confirming that subscription copies will be provided. The letter should include the name of the publisher, the title of the serial, the ISSN number that has been assigned to the serial (if any), and the issue date and numerical or chronological designations that will appear on the first issue that will be provided under the subscriptions.

Subscription copies should be physically mailed to the address specified in § 201.1(c) of the regulations. The copies should be sent promptly after the publication of each issue, and the subscriptions should be maintained on an ongoing basis. A party may cancel its subscription only if (i) the serial is no longer published by the owner, (ii) the serial is no longer published in the United States in a physical format, or (iii) the Copyright Acquisitions Division informs the owner that the serial is no longer needed for the Library’s collections.

*See **37 C.F.R. § 202.19(d)(2)(xi)**.*

1511.8(C) Published Newspapers

A party may satisfy the mandatory deposit requirement for a published newspaper by submitting a deposit pursuant to and in compliance with the group registration option for newspaper issues. **37 C.F.R. § 202.19(d)(2)(ix)**. For information concerning this option, see **Chapter 1100**, Section 1108.

1511.8(D) Computer Programs and Computerized Information Works

As a general rule, a party may submit one complete copy of the **best edition** of the work in order to satisfy the mandatory deposit requirement for **computer programs** and computerized information works, such as statistical compendia, **serials**, and reference works. However, if the work is copy-protected, two copies of the best edition are required. **37 C.F.R. § 202.19(d)(2)(vii)**.

1511.8(E) Musical Works

If a musical work was published in the United States solely on phonorecords, then as discussed in Section **1511.3**, the work is exempt from the mandatory deposit requirement. **37 C.F.R. § 202.19(c)(4)**. Sound recordings of a musical work published on phonorecords, however, are not exempt from mandatory deposit, as the sound recording is a separate work of authorship.

If a musical work was published in the United States in copies or both in copies and phonorecords, a party should submit one complete copy of the **best edition** of that work. **37 C.F.R. § 202.19(d)(2)(v)**. In other words, if the work was published in phonorecords – such as a compact disc – and in physical copies – such as sheet music – the applicant should submit one complete copy of the sheet music, rather than submitting the compact disc.

1511.8(F) Motion Pictures

To satisfy the mandatory deposit requirement for a **motion picture**, a party may submit one complete copy of the work together with a separate description of its contents, such as a continuity, pressbook, or synopsis. **37 C.F.R. § 202.19(d)(2)(ii)**.

If the copyright owner or the owner of the **exclusive right of publication** has signed the Motion Picture Agreement, the Office may return the **deposit copy** to that party upon request. For information concerning this procedure, see Section **1509.2(F)(4)**.

1511.8(G) Published Multimedia Kits

To satisfy the mandatory deposit requirement for a **published multimedia kit** that includes **literary works**, **audiovisual works**, **sound recordings**, or any combination of such works, a party may submit one complete copy of the **best edition** instead of two copies. **37 C.F.R. § 202.19(d)(2)(vi)**.

1511.8(H) Limited Edition Visual Arts Works

This Section discusses the mandatory deposit requirements for pictorial or graphic works that are **published** in a limited edition.

If an individual author owns the copyright in the work, the copyright owner or owner of the **exclusive right** of publication may submit one complete copy of the **best edition**, or in the alternative, the owner may submit photographs or other **identifying material** for the work, provided that one of the following conditions has been met:

- Less than five copies of the work have been published; or
- The work has been published and sold or offered for sale in a limited edition consisting of no more than 300 numbered copies.

37 C.F.R. § 202.19(d)(2)(iv)(A)-(B). For information concerning the requirements for identifying material, see Section **1509.3(C)**.

1511.8(I) Globes and Other Three-Dimensional Cartographic Works

A party may submit one complete copy of the **best edition** in order to satisfy the mandatory deposit requirement for a **published** three-dimensional cartographic representation of area, such as a globe or relief model. **37 C.F.R. § 202.19(d)(2)(i)**.

1511.8(J) Architectural Works

To satisfy the mandatory deposit requirement for an **architectural work**, the copyright owner or owner of the **exclusive right** of **publication** should submit presentation drawings in their most finished form. **37 C.F.R. § 202.19(d)(2)(viii)**.

The Library of Congress prefers drawings comprised of the following material listed in descending order of preference:

- Original format, or best quality form of reproduction, including offset or silk screen printing.
- Xerographic or photographic copies on good quality paper.
- Positive photostat or photodirect positive.
- Blue line copies (diaz or ozalid process).

The owner may also submit 8 x 10 inch photographs that clearly show several exterior and interior views of the architectural work.

In all cases, the deposit should disclose the name(s) of the architect(s) and draftsman(s), as well as the building site.

See **37 C.F.R. § 202.19(d)(2)(viii)**.

1511.9 Special Relief from the Mandatory Deposit Requirement

This Section discusses the procedure for obtaining special relief from the mandatory deposit requirements. For information concerning the procedure for requesting special relief from the deposit requirements for registration, see Section [1508.8](#).

The [Register of Copyrights](#) is authorized to grant special relief from the mandatory deposit requirement for any [published](#) work.

- The Office may grant an exemption on an individual basis for a single work or for a series or groups of works.
- The Office may permit the deposit of one [copy](#) or [phonorecord](#), or alternative [identifying material](#) (in lieu of submitting two copy(ies) or phonorecord(s) of the work).
- The Office may permit the deposit of incomplete copies or phonorecords or copy(ies) or phonorecords other than those normally comprising the [best edition](#) of a work.
- The Office may permit the deposit of identifying material that does not comply with [Section 202.21](#) of the regulations.

[37 C.F.R. § 202.19\(e\)\(1\)](#).

A request for special relief must be made in writing and must include the specific reason(s) why the request should be granted. The request should be signed by or on behalf of the copyright owner or the owner of the [exclusive right](#) of publication, and it should be sent to the Associate Register of Copyrights and Director of Registration Policy & Practice at the address specified in [Section 1508.8\(B\)](#). *Id.* [§ 202.19\(e\)\(3\)](#).

The Register of Copyrights may terminate any ongoing or continuous grant of special relief after consulting with other appropriate officials of the Library of Congress. *Id.* [§ 202.19\(e\)\(4\)](#). The procedure for terminating a grant of special relief from the mandatory deposit requirements is the same as the procedure for terminating a grant of special relief of the deposit requirements for registration. *See* [Section 1508.8\(D\)](#).