

IDENTIFYING THE WORK(S) COVERED BY A REGISTRATION

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IDENTIFYING THE WORK(S) COVERED BY A REGISTRATION

501 What This Chapter Covers

This Chapter provides guidance on how to identify the work that the applicant intends to register with the U.S. Copyright Office. It explains how to identify the **copyrightable** authorship that can be submitted for registration, and how to describe the **claim** to copyright in that authorship, particularly if the work contains multiple forms of authorship, if it was created by multiple authors, if the authorship is owned by multiple copyright owners, or if the applicant intends to register only a portion of the authorship that appears in the work. In addition, this Chapter assists copyright owners, courts, and the general public in understanding the scope of a registered copyright claim.

When applying to register a work of authorship, it is crucial to correctly identify the work in which copyright is claimed, including the type of work, the author(s) who created that work, and the copyright owner who is entitled to claim copyright in that work. This Chapter provides a general overview of certain forms of authorship and ownership that are recognized under the copyright law, including **joint works**, **works made for hire**, **derivative works**, **compilations**, and **collective works**.

For a discussion of the Office's practices and procedures for registering a claim to copyright, see the following chapters:

- For a general overview of the registration process, see **Chapter 200**.
- For guidance in determining who may file an application and who may be named as the **copyright claimant**, see **Chapter 400**.
- For a general overview of the applications that may be used to register a copyright claim, see **Chapter 1400**.
- For information on how to complete an application, see **Chapter 600**.
- For information regarding the options for registering multiple works with one application, see **Chapter 1100**.
- For information concerning the **deposit** requirements, see **Chapter 1500**.
- For information concerning the Copyright Office's practices and procedures for evaluating copyrightable authorship, see **Chapter 300**. For guidance concerning the practices and procedures relating to specific types of works, see the following chapters:
 - For a discussion of **literary works**, see **Chapter 700**.
 - For a discussion of **works of the performing arts**, see **Chapter 800**.

- For a discussion of **visual art works**, see **Chapter 900**.
- For a discussion of websites and website content, see **Chapter 1000**.
- For a discussion of **mask works** and **vessel designs**, see **Chapters 1200** and **1300**.

502 A Copyright Registration Covers a Claim in a Work of Original Authorship

The U.S. Copyright Office does not issue copyrights, but instead simply registers claims to copyright. See **17 U.S.C. § 408(a)** (stating that “the owner of copyright or of any exclusive right in the work may obtain registration of the copyright claim” by submitting an appropriate application, filing fee, and deposit to the Copyright Office). The copyright in a work of authorship created or first **published** after January 1, 1978 is protected from the moment it is created, provided that the work is original and is **fixed** in a tangible medium of expression. **17 U.S.C. §§ 102(a), 408(a)**. In other words, the copyright in a work of original authorship exists regardless of whether the work has been submitted for registration or whether the Office has issued a **certificate of registration** for that work. See **17 U.S.C. § 408(a)** (“registration is not a condition of copyright protection”).

A copyright “claim” is an “assertion of copyright [ownership in] . . . the work.” **Applications for Registration of Claim to Copyright Under Revised Copyright Act, 42 Fed. Reg. 48,944, 48,945 (Sept. 26, 1977)**. Thus, when an applicant files an application to register a work of authorship, the applicant is asserting a claim of ownership in the copyright in that work.

Although registration is optional, there are important benefits for registering a claim to copyright and for doing so in a timely manner. For a discussion of these benefits, see **Chapter 200**, Section 202.

503 Identifying the Original Authorship That the Applicant Intends to Register

A copyright **claim** is a claim in the original authorship that an author or authors contributed to the work. The applicant — not the U.S. Copyright Office — must identify the original authorship that the applicant intends to register. In making this determination, the applicant may find it helpful to consider the following questions:

- What is the work of authorship?
- Who is the author(s) of the work?
- What type(s) of authorship did the author or co-authors create?
- Who owns the copyright in that authorship?
- Does the work contain unclaimable material?

Each of these topics is discussed in Sections **503.1** through **503.5** below.

503.1 What Is the Work of Authorship?

503.1(A) Works of Authorship Distinguished from the Constituent Elements of the Work

The U.S. Copyright Office registers claims to copyright in works of authorship. As a general rule, the Office will issue one registration for each work that is submitted for registration.

The Office may examine the constituent elements or individual components of a work to determine if the work contains a sufficient amount of creative expression to warrant registration. But as a general rule, the Office will not issue separate registrations for the constituent elements or individual components of a work of authorship. Likewise, the Office will not issue separate registrations to each author who contributed copyrightable expression to a work of authorship (except as contributions to a collective work or derivative works).

503.1(B) Copyrightable Subject Matter

A work may be registered with the U.S. Copyright Office, provided that it falls within one or more of the categories of authorship set forth under [Section 102\(a\)](#) of the Copyright Act. Works that do not fall within one or more of these congressionally-established categories do not constitute **copyrightable** subject matter, and as such, cannot be registered.

[Section 102\(a\)](#) of the Copyright Act states that works of authorship include the following categories of works:

- **Literary works.**
- Musical works, including any accompanying words.
- Dramatic works, including any accompanying music.
- **Pantomimes and choreographic works.**
- **Pictorial, graphic, and sculptural works.**
- **Motion pictures and other audiovisual works.**
- **Sound recordings.**
- **Architectural works.**

The following chart provides representative examples of works that may be registered and the relevant category of authorship for each work.

Category of Authorship	Types of Works
Literary Works	Fiction, nonfiction, poetry, serial publications (e.g., newspapers, magazines, etc.), articles, advertising copy, written communications (e.g., letters, email messages), reference works, directories, catalogs, compilations of information, computer programs, databases, ebooks, audiobooks, online textual works (e.g., blogs, website text), and similar types of textual works.
Pictorial Works	Paintings, drawings, photographs, prints, art reproductions, maps, technical drawings, diagrams, applied art (i.e., two-dimensional pictorial artwork applied to a useful article), works of artistic craftsmanship (e.g., stained glass, tapestry, wall-paper), online or digital artwork (e.g., computer-aided artwork, digital imaging, pixel art), and similar types of pictorial works.
Graphic Works	Drawings, prints, art reproductions, maps, technical drawings, diagrams, applied art (i.e., two-dimensional graphic artwork applied to a useful article), works of artistic craftsmanship (e.g., stained glass, tapestry, wallpaper), online or digital artwork (e.g., computer-aided artwork, digital imaging, pixel art), and similar types of graphic works.
Sculptural Works	Sculptures, globes, models, applied art (i.e., three-dimensional artwork applied to a useful article), works of artistic craftsmanship (e.g., paperweights, piggybanks, decorative bookends), and similar types of sculptural works.
Musical Works	Songs, song lyrics, symphonies, concertos, advertising jingles, and similar types of musical works.
Dramatic Works	Plays, musicals, operas, scripts, screenplays, and similar types of dramatic works.
Choreographic Works	Ballet, modern dance, and similar types of complex dances.
Motion Pictures	Films, documentaries, television shows, cartoons, videos, online videos, motion picture soundtracks, and similar types of motion pictures.
Audiovisual Works	Videogames, slide presentations, online audiovisual works (e.g., smartphone and tablet applications, online courses and tutorials, website content), and similar types of audiovisual works.
Sound Recordings	A recording of a song, a recording of a vocal performance, a recording of a musical performance, a recording of a literary work (e.g., an audiobook), a digital file of a performance, and similar types of recordings.
Architectural Works	Buildings, architectural plans, and architectural drawings.

503.1(C) Compilations and Derivative Works

The Copyright Act states that “[t]he subject matter of copyright as specified by section 102 includes compilations and derivative works.” [17 U.S.C. § 103\(a\)](#).

Compilations and derivative works constitute **copyrightable** subject matter, provided that the work falls within one or more of the categories of authorship set forth in [Section 102\(a\)](#) of the Act (e.g., literary works, **sound recordings**, pictorial works, etc.). In other words, a compilation

or derivative work may be copyrightable provided that it qualifies as a literary work, a musical work, a dramatic work, or one of the other congressionally-established categories of authorship. A compilation or derivative work that does not fall within one or more of the [Section 102\(a\)](#) categories is not registrable, such as a compilation of exercises or a new version of a useful article. [Registration of Claims to Copyright, 77 Fed. Reg. 37,605, 37,606 \(June 22, 2012\)](#).

For a definition and discussion of compilations and derivative works, see Sections [507](#) and [508](#).

503.1(D) Work of Authorship Distinguished from the Medium of Expression

A copyright registration covers the [copyrightable](#) authorship that the author contributed to the work, but it does not cover the medium in which the work has been [fixed](#). See [H.R. REP. NO. 94-1476, at 53 \(1976\)](#), reprinted in 1976 U.S.C.C.A.N. 5659, 5666; [S. REP. NO. 94-473, at 52 \(1975\)](#) (recognizing that there is “a fundamental distinction between the ‘original work’ which is the product of ‘authorship’ and the multitude of material objects in which it can be embodied.”). Thus, when completing an application, the applicant should describe the copyrightable authorship that the author contributed to the work, rather than the medium that the author used to create that work. The U.S. Copyright Office cannot register a [claim](#) based solely on the method that the author used to create his or her expression or the medium in which the expression has been fixed.

The following chart provides representative examples of various types of works and the authorship they typically contain, as distinguished from the medium in which the authorship may be fixed. In these examples, the Office may register a claim to copyright in “2-D artwork,” “music and lyrics,” “[sound recording](#),” or other forms of original authorship, but not in the “canvas,” “compact disc,” “digital music file,” or other medium that the author used to create the work.

Type of Work	Medium of Expression	Original Authorship
Short story	Paper, digital file, etc.	Text that qualifies as a literary work
Acrylic painting	Canvas	2-D Artwork
Song containing music and lyrics	Sheet music, compact disc, digital music file, etc.	Music and lyrics
Recording of a song	Compact disc, digital music file, etc.	Sound recording
Home video	DVD, digital video file, etc.	Motion picture

503.1(E) Copyrightable Authorship

When completing an application, the applicant should identify the [copyrightable](#) authorship that the author contributed to the work, but should not assert a [claim](#) in any aspect of the work that is not protected by copyright. For more information on what constitutes uncopyrightable authorship, see [Chapter 300](#), Section 313.

The following chart provides representative examples of various types of works and the copyrightable authorship they typically contain, as distinguished from the uncopyrightable material

that may appear in the work. In these examples, the Office may register a claim to copyright in the “text,” “photographs,” “artwork,” or other forms of copyrightable authorship that the author contributed to the work, but not the “facts,” “listing of ingredients,” “process,” “method,” “name,” “typeface,” “typographic ornamentation,” or other uncopyrightable material.

Type of Work	Copyrightable Authorship	Uncopyrightable Material
Newspaper	Text, photographs, illustrations	Facts
Cookbook	Text, artwork, photographs	Listings of ingredients; ideas, procedures, processes, or methods for cooking
Computer program	Source code, screen displays of pictorial or audiovisual authorship	Ideas, procedures, processes, systems, methods of operation, concepts, principles, or discoveries
Product logo	Artwork	Name of the product; typeface or typographic ornamentation
Comic book	Artwork, text	Name of characters; idea for characters
Website	Text, artwork, photographs, audiovisual material	Format and layout; domain name

503.2 Who Is the Author of the Work?

The applicant should identify the author or co-authors who created the work that the applicant intends to register.

If the work qualifies as a **joint work**, the applicant should identify each author who contributed **copyrightable** authorship to that work. For a definition and discussion of joint works, see Section 505.

If the work was created as a **work made for hire**, the employer for hire should be identified as the author. For a definition and discussion of works made for hire, see Section 506.

The author or co-authors listed in the application are presumed to be the sole authors or joint authors of the expression claimed therein. Although the U.S. Copyright Office does not investigate the truth of the claims asserted in the application, it does verify that the asserted authorship facts are consistent with the facts contained in the deposit copy(ies) or elsewhere in the registration materials.

For guidance in identifying the author of a work, see **Chapter 600**, Sections 613.1 through 613.8. For guidance in completing the name of author field/space of the application, see **Chapter 600**, Section 613.9.

503.3 What Type of Authorship Did the Author Create?

The applicant should identify the **copyrightable** authorship that the author or co-authors contributed to the work.

The U.S. Copyright Office only examines the authorship that is explicitly claimed in the application. It does not examine any authorship that is not claimed in the application, and therefore, no *prima facie* presumption should apply to unclaimed authorship that appears in the work.

A copyrightable work may contain one or more types of authorship, but as discussed in Section 503.4, a registration only covers the authorship that is owned by the **claimant** or co-claimants who are named in the application. In some cases, the applicant may intend and may be entitled to register all of the authorship that appears in the work, while in other cases the applicant may intend or may be entitled to register only certain aspects of the work.

The following chart provides a representative example of a work that contains multiple types of authorship.

Work of Authorship	Authorship Created by Author A	Authorship Created by Author B
Newspaper	Music	Lyrics

In this example, the song contains two types of authorship created by two different authors. If the claimant only owns the copyright in the music, the applicant should assert a **claim** in “music” and should name Author A in the application (but not Author B).

If the claimant only owns the copyright in the lyrics, the applicant should assert a claim in “lyrics” and should name Author B in the application (but not Author A).

By contrast, if the claimant owns the copyright in the music and lyrics, the applicant should assert a claim in both elements and should name Authors A and B in the application.

503.4 Who Owns the Copyright in the Authorship?

The applicant should identify the person or organization that owns the **copyrightable** authorship that the author or co-authors contributed to the work. For purposes of copyright registration, this person or organization is known as the “**copyright claimant**.”

The copyright in a work of authorship initially belongs to the author or co-authors of that work, unless and until the author assigns the copyright to another party in a signed, written agreement or by operation of law. **17 U.S.C. §§ 201(a), 204(a)**. If the author no longer owns the copyright in the work, the applicant must provide a brief statement that explains “how the claimant obtained ownership of the copyright.” **17 U.S.C. § 409(5)**. For guidance in completing these portions of the application, see **Chapter 600**, Sections 619 and 620.

As discussed in Section 503.3, works of authorship often contain different forms of expression. In some cases, the copyright claimant may own all of the authorship that appears in the work, while in other cases the claimant may own or may be entitled to register only certain aspects of

the work. In all cases, the applicant should assert a **claim** only in the authorship that is owned by the claimant or co-claimants named in the application.

The following chart provides a representative example of a work that contains multiple types of authorship that is owned by multiple claimants.

Work of Authorship	Authorship Owned by Author A	Authorship Owned by Author B	Authorship Owned by Other Parties
Children’s Book	Text	Illustrations	Text, artwork, and photographs on the cover

If the claimant owns the copyright in the text of the book (but does not own the illustrations or any of the content that appears on the cover), the applicant should identify the author(s) of the text, the applicant should assert a claim in “text,” and the applicant should name A as the copyright claimant.

If the claimant owns the copyright in the illustrations (but does not own the text of the book or any of the content that appears on the cover), the applicant should identify the author(s) of those illustrations, the applicant should assert a claim in “2-D artwork,” and the applicant should name B as the copyright claimant.

503.5 Does the Work Contain Unclaimable Material?

A copyright registration covers the new expression that the author created and contributed to the work, but it does not cover any unclaimable material that the work may contain. For purposes of registration, unclaimable material includes the following:

- Previously **published** material.
- Previously registered material (including material that has been submitted for registration but has not been registered yet).
- Material that is in the **public domain**.
- **Copyrightable** material that is owned by a third party (*i.e.*, an individual or legal entity other than the **claimant** who is named in the application).

For a definition and discussion of each type of unclaimable material, see **Chapter 600**, Sections 621.4 through 621.7.

If the work submitted for registration contains unclaimable material, the applicant should exclude that material from the **claim** by providing a brief description in the Material Excluded field in the online application or in space 6(a) of the paper application. However, the applicant does not need to complete this portion of the application if the work merely contains material that is uncopyrightable, such as words, letters, numbers, common symbols and shapes, and the like. Similarly, brief quotes, short phrases, and other *de minimis* uses of prior works do not need to be excluded from the claim.

For representative examples of works that contain unclaimable material, see Sections 503.5(A) through 503.5(D) below. For guidance in completing the Material Excluded field and space 6(a) of the application, see Chapter 600, Sections 621.4 through 621.6, and Section 621.8(B).

503.5(A) Unclaimable Material: Previously Published Material

The following chart provides a representative example of a work that contains previously published material.

Work of Authorship	Excluded Material	New Authorship
Textbook (second edition)	Text, artwork, and photographs published in the first edition of this textbook	New text that the author created for the second edition of this textbook

In this example, the applicant may register the new text that the author contributed to the second edition of this textbook. The applicant should exclude the text, artwork, and other material that was published in the first edition of this work using the procedure described in Chapter 600, Section 621.8.

503.5(B) Unclaimable Material: Previously Registered Material

The following chart provides a representative example of a work that contains previously registered material.

Work of Authorship	Excluded Material	New Authorship
Feature film based on an unpublished screenplay	Unpublished screenplay (Reg. No. PAu 9-999-999)	Motion picture

In this example, the unpublished screenplay has been previously registered with the U.S. Copyright Office, but the feature film has not. The applicant may register the new authorship that the author contributed to the motion picture. The previously registered screenplay should be excluded from the claim using the procedure described in Chapter 600, Section 621.8(F).

503.5(C) Unclaimable Material: Public Domain Material

The following chart provides a representative example of a work that contains public domain material.

Work of Authorship	Excluded Material	New Authorship
Musical based on <i>The Confidence Man</i> by Herman Melville	<i>The Confidence Man</i> by Herman Melville	Music, lyrics, script

In this example, the musical is based on Herman Melville’s novel *The Confidence Man*, which is in the public domain. The applicant may register the music, lyrics, and script that the author contributed to the musical. The applicant should exclude the story, characters, and other expression that the author borrowed from the novel using the procedure described in **Chapter 600**, Section 621.8.

503.5(D) Unclaimable Material: Copyrightable Material That Is Owned by a Third Party

The following chart provides a representative example of a work that contains **copyrightable** material that is owned by a third party.

Work of Authorship	Excluded Material	New Authorship
Coffee Table Book	Photographs owned by Photographer A, B, & C	Text owned by Company X

In this example, Company X owns the copyright in the text of the coffee table book, while Photographers A, B, and C own the copyright in the photographs that appear in the book. Company X may register the text that the author contributed to the book. The photographs should be excluded from the **claim** using the procedure described in **Chapter 600**, Section 621.8.

504 The Scope of a Registration for a Work of Original Authorship

As a general rule, a registration for a work of authorship covers the entire **copyrightable** content of the authorship that (i) is claimed in the application, (ii) is owned by the **claimant**, and (iii) is contained in the **deposit copy(ies)**.

The applicant should assert a **claim** in this authorship in the online application by completing the Author Created field, and if appropriate, the New Material Included field. In the paper application, the applicant should assert a claim in this authorship by completing the Nature of Authorship space, and if appropriate, the Material Added to This Work space. Together, these fields and spaces provide important information about the scope of the claim of authorship in a work. Applicants are encouraged to be specific when completing these portions of the application. A clear description of the copyrightable expression that the applicant intends to register creates an accurate record of authorship and ownership for the benefit of the copyright owner, the courts, and the general public.

The fact that a work was submitted for registration and was registered by the U.S. Copyright Office does not necessarily mean that the registration covers all the authorship that appears in the work as a whole. As discussed in Sections **503.3** and **504.3**, the Office examines and registers only the copyrightable authorship that is expressly claimed in the application and that is included in the deposit copy(ies). The Office does not examine any authorship that is not claimed or any authorship that has been disclaimed in the application, and the Office cannot examine any authorship that does not appear in the deposit copy(ies).

504.1 Copyrightable Authorship vs. Uncopyrightable Material

A registration covers the **copyrightable** authorship that the author or co-authors contributed to the work, but it does not cover any uncopyrightable material that appears in the work.

If the applicant expressly asserts a **claim** in uncopyrightable material, the **registration specialist** may communicate with the applicant. In the alternative, the specialist may remove the uncopyrightable term from the application and register the claim with an annotation indicating that the registration does not cover that material. See **Chapter 600**, Section 604. The annotation is intended to put the copyright owner, the courts, and the general public on notice concerning the extent of the claim. That said, a registration does not extend to uncopyrightable material that appears in a work of authorship, even if the registration does not contain an annotation or even if it contains ambiguous language that may refer to uncopyrightable material.

504.2 Authorship Contained in the Deposit Copy(ies)

Ordinarily, a registration for a work of authorship only covers the material that is included in the **deposit copy(ies)**. It does not cover authorship that does not appear in the deposit copy(ies), even if the applicant expressly **claims** that authorship in the application.

There are two limited exceptions to this rule:

- In some cases, an applicant may register a work of authorship by submitting identifying portions of the work. For example, an applicant may register a **computer program** by submitting a portion of the **source code** for that work, rather than a complete copy of the entire program.
- In exceptional cases, the U.S. Copyright Office may grant special relief from the **deposit** requirements for a particular work.

A work of authorship that is registered with **identifying material** or based on a grant of special relief may cover the entire copyrightable content of the work, notwithstanding the fact that the applicant did not submit a copy of the entire work. For a discussion of special relief and examples of other works that may be registered with identifying material, see **Chapter 1500**, Sections 1506 and 1508.8.

504.3 Multiple Versions of the Same Work

A registration only covers the specific version of the work that is submitted for registration. The U.S. Copyright Office does not offer so-called “blanket registrations” that cover prior versions or derivative versions of the same work. For example, a registration for a published website covers the text, photographs, or other copyrightable content that appeared on that website on the date(s) claimed in the application and specified in the deposit copy(ies), but it does not cover any future version of that website. Similarly, a registration for version 1.30 of a computer program does not cover version 1.20 or any previously published or previously registered content that appears in the later version of that program. For the same reason, a registration for a comic book that depicts or describes a particular character covers the expression set forth in that issue, but it does not cover the character *per se* or any other issue or other work that features the same character.

For additional guidance in registering multiple versions of the same work, see Section **512**.

505 Joint Works

This Section provides the definition and a general discussion concerning **joint works**. For specific guidance in preparing an application to register a joint work, see **Chapter 600**, Sections 613.5 and 620.5.

505.1 What Is a Joint Work?

The Copyright Act defines a **joint work** as a work “prepared by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole.” **17 U.S.C. § 101**.

A work of authorship is considered a joint work “if the authors collaborated with each other, or if each of the authors prepared his or her contribution with the knowledge and intention that it would be merged with the contributions of other authors as ‘inseparable or interdependent parts of a unitary whole.’” **H.R. REP. NO. 94-1476, at 120**, *reprinted in* 1976 U.S.C.C.A.N. 5659, 5736; **S. REP. NO. 94-473, at 103-04**. The key requirement “is the intention, at the time the writing is done, that the parts be absorbed or combined into an integrated unit.” **H.R. REP. NO. 94-1476, at 120**, *reprinted in* 1976 U.S.C.C.A.N. at 5736.

A contribution to a joint work is considered “inseparable” if the work contains a single form of authorship, such as a novel or painting, and it is considered “interdependent” if the work contains multiple forms of authorship, such as motion picture, opera, or the music and lyrics of a song. *Id.*; **S. REP. NO. 94-473, at 103-04**.

505.2 Determining Whether the Work Is a Joint Work

The applicant — not the U.S. Copyright Office — must determine whether a work qualifies as a **joint work**, and as the legislative history explains, this determination should be based on the facts that existed when the work was created. See **H.R. REP. NO. 94-1476, at 120**, *reprinted in* 1976 U.S.C.C.A.N. at 5736; **S. REP. NO. 94-473, at 103**.

When examining a joint work, the Office applies U.S. copyright law, even if the work was created in a foreign country, created by a citizen, domiciliary, or habitual resident of a foreign country, or first **published** in a foreign country. The U.S. Copyright Act is the exclusive source of copyright protection in the United States, and all applicants — both foreign and domestic — must demonstrate that a work satisfies the requirements of U.S. copyright law in order to register a work with the Office.

Upon request, the Office will provide the applicant with general information about the provisions of the Copyright Act, including the statutory definition for a joint work, and will explain the relevant practices and procedures for registering this type of work. However, the Office cannot provide specific legal advice on the rights of persons, issues involving a particular use of a copyrighted work, cases of alleged foreign or domestic copyright **infringement**, contracts between authors and publishers, or other matters of a similar nature. **37 C.F.R. § 201.2(a)(3)**.

When completing the application, the applicant should provide the name of each joint author who contributed **copyrightable** authorship to the joint work. The Office takes the position that each joint author must contribute a sufficient amount of original authorship to the work. An

author who satisfies this requirement may be considered a joint author, even if his or her contribution to the work is smaller or less significant than the contributions made by another author. By contrast, a collaborator who merely contributes a *de minimis* amount of expression is not considered a joint author. See **Chapter 300**, Section 313.4(B).

As a general rule, the **registration specialist** will accept the applicant’s representation that a work of authorship is a joint work, unless it is contradicted by information provided elsewhere in the registration materials or in the Office’s records, or by information that is known to the specialist. If the **claim** appears implausible, the specialist may communicate with the applicant or may refuse registration. Examples of factors that may indicate that a work does not qualify as a joint work include the following:

- Evidence that one or more of the authors did not intend to merge their contributions into a unitary whole.
- A work containing separate copyright notices for the authors’ respective contributions to the work (e.g., “text © Selena Banik, illustrations © Kieran Banik”).
- A work containing a number of separate and independent works, such as a book of photographs by different authors.
- A work containing a major contribution from one author combined with a minor contribution by another author, such as a book containing hundreds of pages of text by one author and an introduction or a few illustrations by another author.

505.3 The Scope of the Copyright in a Joint Work

Determining whether a work of authorship is a **joint work** has important implications for the ownership of the copyright and the term of the copyright.

The authors of a joint work jointly own the copyright in each other’s contributions and each author owns an undivided interest in the copyright for the work as a whole. **17 U.S.C. § 201(a)**. In other words, all the authors are “treated generally as tenants in common, with each co-owner having an independent right to use or license the use of a work, subject to a duty of accounting to the other co-owners for any profits.” **H.R. REP. NO. 94-1476, at 121**, reprinted in 1976 U.S.C.C.A.N. at 5736; **S. REP. NO. 94-473, at 104**.

If the work of authorship was created by two or more individuals, the copyright in the joint work expires seventy years after the death of the last surviving author. **17 U.S.C. § 302(b)**. If the joint work was created by two or more authors as a **work made for hire**, an **anonymous** work, or a **pseudonymous** work, the copyright expires ninety-five years from the year of **publication** or 120 years from the year of creation (whichever is shorter). **17 U.S.C. § 302(c)**. The term “for an anonymous or pseudonymous work can be converted to the ordinary life-plus-[seventy] term if ‘the identity of one or more of the [joint] authors . . . is revealed’ in . . . records maintained for this purpose in the Copyright Office.” **H.R. REP. NO. 94-1476, at 137**, reprinted in 1976 U.S.C.C.A.N. at 5753; **S. REP. NO. 94-473, at 120**. In this situation, the term of the copyright is “based on the life of the author or co-authors whose identity has been revealed.” **17 U.S.C. § 302(c)**.

506 Works Made for Hire

This Section provides the definition and a general discussion concerning works made for hire. For guidance in preparing an application to register a **work made for hire**, see **Chapter 600**, Sections 613.4, 614.1, 616.1(A), and 617.3.

506.1 What Is a Work Made for Hire?

The term “**work made for hire**” is defined in **Section 101** of the Copyright Act. This definition applies to works created on or after January 1, 1978. For works created prior to 1978, see **Chapter 2100**.

The statute defines a work made for hire as:

1. A work prepared by an employee within the scope of his or her employment;
- or
2. A work that is specially ordered or commissioned, provided that the parties expressly agree in a written instrument signed by them that the work shall be considered a “work made for hire,” and provided that the work is specially ordered or commissioned for use as:
 - A contribution to a **collective work**;
 - A part of a **motion picture** or other **audiovisual work**;
 - A **translation**;
 - A **compilation**;
 - A test;
 - Answer material for a test;
 - An atlas;
 - An instructional text, which is defined as a “literary, pictorial, or graphic work prepared for publication and with the purpose of use in systematic instructional activities;” or
 - A supplementary work, which is defined as “a work prepared for publication as a secondary adjunct to a work by another author for the purpose of introducing, concluding, illustrating, explaining, revising, commenting upon, or assisting in the use of the other work, such as forewords, afterwords, pictorial illustrations, maps, charts, tables, editorial notes, musical arrangements, answer material for tests, bibliographies, appendixes, and indexes.”

17 U.S.C. § 101 (definition of “work made for hire”).

506.2 Works Created by an Employee Within the Scope of His or Her Employment

The Copyright Act does not define the terms “employee,” “employer,” or “scope of employment.” The Supreme Court has held that Congress intended these terms “to be understood in light of agency law” and that the courts should rely “on the general common law of agency, rather than on the law of any particular State, to give meaning to these terms.” *Community for Creative Non-Violence v. Reid*, 490 U.S. 730, 740 (1989). Examples of factors that may be relevant to this inquiry include the following (although none of these factors is determinative):

- The skill required to create the work.
- The location where the work was created.
- The source of the instrumentalities and tools used to create the work.
- The duration of the relationship between the parties.
- Whether the hiring party has the right to assign additional projects to the hired party.
- The method of payment.
- The extent of the hired party’s discretion over when and how long to work.
- The hired party’s role in hiring and paying assistants.
- Whether the hiring party is in business.
- Whether the work is part of the regular business of the hiring party.
- Whether the hiring party provided employee benefits to the hired party.
- The tax treatment of the hired party.
- Whether the work is the type of work the hired party was authorized to perform.
- Whether the work occurs substantially within the authorized work hours and space limits of the hired party.
- Whether the work is actuated, at least in part, by a purpose to serve the hiring party.

See id. at 751-52 (citing Restatement (Second) of Agency § 220(2) (1958)); *U.S. Auto Parts Network, Inc. v. Parts Geek, LLC*, 692 F.3d 1009, 1015 (9th Cir. 2012).

The following examples illustrate some of the factors that may indicate whether a work does or does not qualify as a **work made for hire**.

Work created by an employee

- Dave Muller is a full time chemist for Continental Chemicals. Dave created a **computer program** that evaluates the company’s products. By eliminating the need to perform mathematical calculations by hand, the program improved the efficiency of the company’s operations.

Continental subsequently asked Dave to develop similar programs for its other products. Dave wrote and tested these programs at home using his personal computer. He did not receive overtime or any additional pay for creating these programs. Each program is considered a work made for hire. Although Dave was not hired as a computer programmer, he was employed by Continental when he wrote these programs and he wrote the programs, at least in part, to further the company's interests. Developing these programs was incidental to his responsibilities because they improved the quality control of the company's operations. Dave specifically created the programs for the company's products and it is unlikely that he would do this type of work on his own. In the application to register the program, Continental Chemicals should be named as the author and the work made for hire box should be checked "yes."

Work created by an employee acting within the scope of his or her employment

- Lois Lang has worked part time for the *Georgetown Gazette* for five years. She is expected to write at least five articles per week and she does most of her work at the paper's office. She is paid on a monthly basis and income taxes, social security, and medicare are withheld from her paycheck. The *Gazette* reimburses Lois for her driving expenses, but she receives no direct employee benefits. Lois's contributions to the paper are considered works made for hire. In the application to register Lois's contributions, the publisher of the *Georgetown Gazette* should be named as the author and the work made for hire box should be checked "yes."
- Kir Royale Records is in the business of producing classical music recordings. Stefan Brooks is a sound engineer who works for Kir Royale from time to time. Stefan performs all of his work at the company's studio using the company's sound mixing equipment. His supervisor closely monitors his job performance and evaluates the quality of his work. Stefan is paid an hourly wage and he receives no employee benefits. The recordings that he produces for Kir Royale Records are considered works made for hire. In the application to register these **sound recordings**, Kir Royale Records should be named as the author of the recordings and the work made for hire box should be checked "yes."
- Jack Thomas is a full time programmer for Creative Computer Corporation. His job responsibilities include writing source code, designing user interfaces, and preparing program documentation. Jack creates a subroutine for a new program called Utopolis. The routine is considered a work made for hire, because Jack created this work while acting within the scope of his duties as an employee of Creative Computer Corporation. In the application to register Utopolis, Creative Computer Corporation should be named as the author and the work made for hire box should be checked "yes."

Work created by an individual who was not acting within the scope of his or her employment

- John Bellevue is a staff composer for SoundTrax, Inc., a company that produces music for motion picture studios. While on a leave of absence, John wrote a song called "Saturdays Are the Best" to celebrate his son's birthday. Although John is a fulltime employee of SoundTrax, he did not create this song as part of his regular duties. Therefore, the song is not a work made for hire. In the application to register "Saturdays Are the Best," John should be named as the author of the song and the work made for hire box should be checked "no."
- Ryan Jennings created a compilation of pharmaceutical statistics while in graduate school. When he graduated, Ryan formed Prescription Financial LLP, assigned the copyright in this compilation to the company, and appointed himself President and CEO. The compilation is

not a work made for hire, because Ryan was not an employee of Prescription Financial when he created this work. In the application to register the index, Ryan should be named as the author and the work made for hire box should be checked “no.”

Work created by an individual who is not an employee

- WMFH-FM asked Aaron Washington to create a jingle for the station. The station told Aaron that the jingle should be thirty seconds long and that it should include the sound of a helicopter. Aaron wrote the jingle at home using his own equipment and he did most of his work in the middle of the night. Aaron was paid a flat fee for this assignment. The jingle is not a work made for hire because Aaron was not an employee of WMFH. In the application to register this jingle, Aaron should be named as the author and the work made for hire box should be checked “no.”
- Julianne Ziegler prepared the first draft for a screenplay titled “Princesses vs. Zombies.” After completing the first draft, Zombieflix LLC asked Julianne to prepare a shooting script based on her screenplay. The first draft of this screenplay is not a work made for hire, because Julianne completed the draft before she was hired by Zombieflix LLC. In the application to register the first draft, Julianne should be named as the author and the work made for hire box should be checked “no.”
- Marilyn Chariott works for an accounting firm. She wrote a song titled “Buy the Numbers” in her spare time and someday she hopes to be hired as a singer/songwriter. Marilyn’s song is not a work made for hire, because she did not write this song for her current employer. In the application to register “Buy the Numbers,” Marilyn should be named as the author and the work made for hire box should be checked “no.”

506.3 Works Specially Ordered or Commissioned as a Work Made for Hire

A specially ordered or commissioned work is considered a work made for hire if it satisfies the following criteria:

- The work must fall within one or more of the nine categories of works listed in the statutory definition.
- There must be an express written agreement between the party that ordered or commissioned the work and the individual(s) that actually created the work.
- The agreement must state that the work shall be considered a work made for hire.
- The agreement must be signed by both parties.

If a work fails to satisfy *all* of these requirements, it does not qualify as a work made for hire.

The following examples illustrate some of the factors that may indicate whether a work does or does not qualify as a work made for hire under the second part of the statutory definition.

Works specially ordered or commissioned pursuant to a written agreement specifying that the work will be created as a work made for hire

- Lighthouse Books Inc. is the author of a textbook. The company hired Nous Traduisons Inc. to translate this work from English into French. Before Nous Traduisons began working on this project, the parties signed a written agreement stating that Nous Traduisons would translate the textbook for Lighthouse Books as a work made for hire. The work satisfies the second part of the statutory definition, because a translation is one of the nine categories of works that may be specially ordered or commissioned and because the parties signed a written agreement specifying that the work would be created for Lighthouse Books as a work made for hire. In the application to register this work, Lighthouse Books, Inc. should be named as the author of the translation and the work made for hire box should be checked “yes.”

No written agreement between the parties specifying that the work will be created as a work made for hire

- Judy Smith works for a car dealership. During her lunch break, she created an atlas that depicts the cities and territories in an imaginary country. She hopes to sell her work to a company that publishes fantasy books. Judy’s atlas fails the first part of the statutory definition because she did not create this work for her employer while acting within the scope of her employment. Although an atlas is one of the nine categories of works that may be created as a work made for hire, Judy’s atlas does not satisfy the second part of the statutory definition because she has not signed a written agreement specifying that she would create this atlas for another party as a work made for hire. In the application to register this atlas, Judy should be named as the author and the work made for hire box should be checked “no.”

Work does not fall within the nine categories of works listed in the statutory definition that may be specially ordered or commissioned as a work made for hire

- Monkey Business Inc. hired Heath Liszewski to create the design for a new line of wallpaper. The work does not satisfy the first part of the statutory definition because Heath is an independent contractor and he was paid a flat fee for his work on this assignment. Therefore, he is not an employee of Monkey Business. Although the parties signed a written agreement specifying that Heath would create this work for Monkey Business, it does not satisfy the second part of the definition because two-dimensional artwork is not one of the nine categories of works that may be specially ordered or commissioned as a work made for hire. In the application to register this work, Heath should be named as the author and the work made for hire box should be checked “no.”

506.4 Determining whether the Work is a Work Made for Hire

506.4(A) Applicant Makes the Determination

The applicant—not the U.S. Copyright Office—must determine whether the work is a work made for hire, and this determination should be based on the facts that exist at the time when the work was created.

When examining a **work made for hire** the Office applies U.S. copyright law, even if the work was created in a foreign country, created by a citizen, domiciliary, or habitual resident of a foreign country, or first **published** in a foreign country. The U.S. Copyright Act is the exclusive source of copyright protection in the United States, and all applicants—both foreign and domestic—must

demonstrate that a work satisfies the requirements of U.S. copyright law in order to register a work with the Office.

As a general rule, the **registration specialist** will accept the applicant's representation that a work is a work made for hire, unless it is contradicted by information provided elsewhere in the registration materials or in the Office's records or by information that is known to the specialist. If the **claim** appears unusual or implausible, the specialist may communicate with the applicant or may refuse registration.

506.4(B) Work Made for Hire Questionnaire

Upon request, the U.S. Copyright Office will provide the applicant with general information about the provisions of the Copyright Act, including the statutory definition of a **work made for hire**, and will explain the relevant practices and procedures for registering the work.

The Office cannot provide specific legal advice on the rights of persons, issues involving a particular use of a copyrighted work, cases of alleged foreign or domestic copyright **infringement**, contracts between authors and publishers, or other matters of a similar nature. **37 C.F.R. § 201.2(a)(3)**. However, the Office has developed a questionnaire that may be useful to applicants in determining whether a particular work fits within the statutory definition of a work made for hire.

NOTE: This questionnaire is only intended for use in connection with works created on or after January 1, 1978.

Question 1: Was the work created by an employee?

NOTE: The fact that someone was hired or paid to create a work does not necessarily mean that that person is an employee. For guidance on whether a person may be considered an employee, see Section **506.2**.

If the answer to Question 1 is “yes,” proceed to Question 2. If the answer is “no,” proceed to Question 3.

Question 2: Did the employee create the work while acting within the scope of his or her employment?

If the answer to Question 2 is “yes,” the work is a work made for hire. For guidance in completing an application to register a work made for hire, see **Chapter 600**, Section 614.1.

If the answer is “no,” proceed to Question 3.

Question 3: Is there a written agreement between the party that ordered or commissioned the work and the party who created the work?

If the answer is “no,” the work is not a work made for hire.

If the answer is “yes,” proceed to Question 4.

Question 4: Was the written agreement signed by the party that ordered or commissioned the work and the party who created the work?

If the answer is “no,” the work is not a work made for hire.

If the answer is “yes,” proceed to Question 5.

Question 5: Did the parties expressly agree in the written agreement that the work shall be considered a work made for hire?

If the answer is “no,” the work is not a work made for hire.

If the answer is “yes,” proceed to Question 6.

Question 6: Was the work specially ordered or commissioned for use in one or more of the following types of works?

- An atlas.
- A test.
- Answer material for a test.
- A **translation**.
- As part of a **motion picture** or other **audiovisual work**.
- A **compilation**.
- A contribution to a **collective work**.
- A supplementary work.
- An instructional text.

If the answer is “no,” the work is not a work made for hire.

If the answer is “yes,” the work is a work made for hire. For guidance in completing an application to register a work made for hire, see **Chapter 600**, Section 614.1.

506.5 The Scope of the Copyright in a Work Made for Hire

Determining whether a work is a **work made for hire** has important implications for the term of the copyright, the ownership of the copyright, and the ability to terminate a **transfer or license** involving the copyright. See *Community for Creative Non-Violence v. Reid*, 490 U.S. 730, 737 (1989) (“Classifying a work as ‘made for hire’ determines not only the initial ownership of its copyright, but also the copyright’s duration . . . [and] termination rights.”). Therefore, the U.S. Copyright Office encourages applicants to exercise judgment when answering the work made for hire portion of the application.

- *Copyright Term.* The copyright in a work made for hire expires ninety-five years from the year of publication or one hundred twenty years from the year of creation (whichever is shorter). [17 U.S.C. § 302\(c\)](#).
- *Copyright Ownership.* The copyright in a work made for hire initially belongs to the employer or the party that ordered or commissioned the work (rather than the individual who actually created the work). In other words, if the work was created by an employee acting within the scope of his or her employment, the employer owns the copyright in that work (not the employee). If the work was specially ordered or commissioned as a work made for hire, the person or organization that ordered or commissioned owns the copyright in that work (rather than the individual who actually created the work). [17 U.S.C. § 201\(b\)](#).
- *Termination.* Under certain circumstances, an author or his or her heirs may terminate an exclusive or nonexclusive transfer or license of the copyright in the author’s work by exercising the author’s right to terminate a grant under [Sections 203, 304\(c\), and 304\(d\)](#) of the Copyright Act. However, these termination provisions do not apply to grants involving the copyright in a work made for hire. For a general discussion of termination, see [Chapter 2300](#), Section 2310.

507 Derivative Works

This Section provides the definition and a general discussion concerning [derivative works](#). For information concerning the Office’s practices and procedures for evaluating the copyrightability of derivative works, see [Chapter 300](#), Section 311. For guidance in completing an application to register a derivative work, see [Chapter 600](#), Sections 613.6, 617.5, 618.5, 620.7, and 621.

507.1 What Is a Derivative Work?

The Copyright Act defines a [derivative work](#) as “a work based upon one or more preexisting works, such as a translation, musical arrangement, dramatization, fictionalization, motion picture version, sound recording, art reproduction, abridgement, condensation, or any other form in which a work may be recast, transformed, or adapted.” The statute also states that “[a] work consisting of editorial revisions, annotations, elaborations, or other modifications, which, as a whole, represent an original work of authorship, is a ‘derivative work.’” [17 U.S.C. § 101](#).

Creating a derivative work requires “a process of recasting, transforming, or adapting ‘one or more preexisting works.’” [H.R. REP. NO. 94-1476 at 57](#), *reprinted in* 1976 U.S.C.C.A.N. 5659, 5670; [S. REP. NO. 94-473 at 55](#). Thus, derivative works contain two distinct forms of authorship:

- The authorship in the preexisting work(s) that has been recast, transformed, or adapted within the derivative work, and
- The new authorship involved in recasting, transforming, or adapting the preexisting work(s).

The new authorship that the author contributed to the derivative work may be registered, provided that it contains a sufficient amount of original authorship.

As the legislative history explains, derivative works include “every copyrightable work that employs preexisting material . . . of any kind,” regardless of whether the preexisting material is

protected by copyright or whether the copyright in that material has expired. **H.R. REP. NO. 94-1476 at 57**, *reprinted in* 1976 U.S.C.C.A.N. at 5670; **S. REP. NO. 94-473 at 55**. Typically, a derivative work is a new version of a preexisting work or a work that is based on or derived from a preexisting work.

Examples:

- A motion picture based on a novel or a play.
- An English translation of a novel written in Spanish.
- A sculpture based on a drawing.
- A drawing based on a photograph.
- A lithograph based on a painting.
- A musical arrangement of a preexisting musical work.
- A drama based on the letters and sermons of Cotton Mather.

A new edition of a preexisting work may also qualify as a derivative work, provided that the revisions or other modifications, taken as a whole, constitute a new work of authorship.

Examples:

- A revision of a previously published book.
- A revision of the artwork and text on a website.
- A new version of an existing computer program.
- A new version of a doll or stuffed animal.

507.2 The Scope of the Copyright in a Derivative Work

The copyright for a **derivative work** only covers the new material that the author contributed to that work. It does not cover any of the preexisting material that appears in the derivative work. See **H.R. 94-1476, at 57**, *reprinted in* 1976 U.S.C.C.A.N. at 5670; **S. REP. NO. 94-473, at 55** (“[C]opyright in a ‘new version’ covers only the material added by the later author, and has no effect one way or the other on the copyright or public domain status of the preexisting material.”). Likewise, a registration for a derivative work does not cover any previously **published** material, previously registered material, public domain material, or third party material that appears in the work. In other words, the copyright in a derivative work is “independent of, and does not affect or enlarge the scope, duration, ownership, or subsistence of, any copyright protection in the preexisting material.” **17 U.S.C. § 103(b)**.

Derivative works often contain previously published material, previously registered material, public domain material, or material owned by a third party because by definition they are based upon one or more preexisting works. If a derivative work contains an appreciable amount of unclaimable material, the applicant generally should limit the **claim** to the new material that the author contributed to the work, and the **unclaimable material** should be excluded from

the claim. For guidance on this procedure, see [Chapter 600](#), Section 621.8. By contrast, there is generally no need to limit the claim if the derivative work is solely based on or derived from [unpublished](#) material, unregistered material, or [copyrightable](#) material that is owned by the [claimant](#) named in the application.

The author of a derivative work may claim copyright in a work that recasts, transforms, or adapts a preexisting work, provided that the preexisting material has been used in a lawful manner. [Section 103\(a\)](#) of the Copyright Act states that the copyright in a derivative work “does not extend to any part of the work” that “unlawfully” uses preexisting material. [17 U.S.C. § 103\(a\)](#). As discussed in [Chapter 300](#), Section 313.6(B), this provision is intended to prevent “an infringer from benefiting, through copyright protection, from committing an unlawful act.” [H.R. REP. NO. 94-1476, at 57, reprinted in 1976 U.S.C.C.A.N. at 5671](#). The unlawful use of preexisting material may also infringe the right of reproduction and/or the right to prepare derivative works based upon that material.

508 Compilations

This Section provides the definition and a general discussion concerning [compilations](#). For information concerning the Office’s practices and procedures for evaluating the copyrightability of compilations, see [Chapter 300](#), Section 312. For guidance in preparing an application to register a compilation see [Chapter 600](#), Sections 613.7, 617.5, 618.6, 620.7, and 621.8(C).

508.1 What Is a Compilation?

The Copyright Act defines a [compilation](#) as “a work formed by the collection and assembling of preexisting materials or of data that are selected, coordinated or arranged in such a way that the resulting work as a whole constitutes an original work of authorship.” [17 U.S.C. § 101](#).

As the legislative history explains, “[a] ‘compilation’ results from a process of selecting, bringing together, organizing, and arranging previously existing material of all kinds, regardless of whether the individual items in the material have been or ever could have been subject to copyright.” [H.R. REP. NO. 94-1476, at 57, reprinted in 1976 U.S.C.C.A.N. at 5670](#); [S. REP. NO. 94-473, at 55](#).

Examples:

- A directory of services for a particular region.
- A list of the best short stories of 2014.
- A collection of the best sound recordings of 1985.

The statute states that “[t]he term ‘compilation’ includes collective works,” which are discussed in more detail in [Section 509](#) below. [17 U.S.C. § 101](#). Creating a collective work also “involve[s] the selection, assembly, and arrangement of ‘a number of contributions,’ because this type of work “is a species of ‘compilation.’” [H.R. REP. NO. 94-1476, at 122, reprinted in 1976 U.S.C.C.A.N. at 5737](#); [S. REP. NO. 94-473, at 105](#).

Examples:

- A book of news photos.

- An academic journal containing articles on a particular topic.
- A newspaper comprised of articles by different journalists.

508.2 The Scope of the Copyright in a Compilation

The fact that a **compilation** has been registered with the U.S. Copyright Office does not necessarily mean that every element of the work is protected by copyright. A **claim** to copyright in a compilation “extends only to the material contributed by the author of such work” and does not “imply any exclusive right in the preexisting material.” **17 U.S.C. § 103(b)**. The data, facts, or other uncopyrightable material that appears in a compilation is not protected by the copyright in that work. See *Feist Publications, Inc. v. Rural Telephone Service Co.*, 499 U.S. 340, 360 (1991) (stating that “the copyright in a compilation does not extend to the facts it contains”). A registration for a compilation does not cover any of the preexisting material or data that appears in the compilation unless that material or data is expressly claimed in the registration. Likewise, a registration for a compilation does not cover any previously **published** material, previously registered material, **public domain** material, or third party material that appears in the compilation. “This inevitably means that the copyright in a factual compilation is thin. Notwithstanding a valid copyright, a subsequent compiler remains free to use the facts contained in another’s publication to aid in preparing a competing work, so long as the competing work does not feature the same selection and arrangement.” *Id.* 499 U.S. at 349.

When registering a compilation, the applicant should identify the preexisting material or data that the author selected, coordinated, and/or arranged. If the compilation contains an appreciable amount of previously published material, previously registered material, public domain material, or material owned by a third party, the applicant generally should limit the claim to the new material that the author contributed to the work and the unclaimable material should be excluded from the claim. For guidance on this procedure, see **Chapter 600**, Section 621.8(E).

The author of a compilation may claim copyright in an original selection, coordination, and/or arrangement of preexisting material, provided that the material has been used in a lawful manner. **Section 103(a)** of the Copyright Act states that the copyright in a compilation “does not extend to any part of the work” that “unlawfully” uses preexisting material. As discussed in **Chapter 300**, Section 313.6(B), this provision is intended to prevent “an infringer from benefiting, through copyright protection, from committing an unlawful act.” **H.R. REP. NO. 94-1476, at 57**, reprinted in 1976 U.S.C.C.A.N. at 5671.

509 Collective Works and Contributions to Collective Works

This Section provides the definition and a general discussion of **collective works** and contributions to collective works. For information concerning the Office’s practices and procedures for evaluating the copyrightability of collective works, see **Chapter 300**, Section 312. For guidance in preparing an application to register a collective work or a contribution to a collective work, see **Chapter 600**, Sections 610.4, 613.8, 618.7, 620.8, and 621.8(D).

509.1 What Is a Collective Work?

A **collective work** is a type of **compilation**. The Copyright Act defines a collective work as “a work, such as a periodical issue, anthology, or encyclopedia, in which a number of contributions, constituting separate and independent works in themselves, are assembled into a collective whole.” **17 U.S.C. § 101**. The statute also states that “[t]he term ‘compilation’ includes collective works.” *Id.* (definition of “compilation”). Thus, collective works are subject to the statutory requirements for compilations: There must be a sufficiently creative selection, coordination, or arrangement of the component works to establish a collective work.

Creating a collective work requires the “assemblage or gathering of ‘separate and independent works . . . into a collective whole.” **H.R. REP. NO. 94-1476, at 120**, *reprinted in* 1976 U.S.C.C.A.N. 5659, 5736; **S. REP. NO. 94-473, at 104** (omission in original). In other words, collective works contain two distinct forms of authorship:

- The compilation authorship in creating the collective work, which involves selecting, coordinating, and/or arranging a number of separate and independent works and assembling them into a collective whole; and
- The authorship in the separate and independent works included within the collective work, such as an article that appears in a periodical issue or a poem that appears in an anthology.

An applicant may register a collective work together with the separate and independent works contained therein (i) if the copyright in the collective work and the component works are owned by the same claimant, and (ii) if the component works have not been previously published, previously registered, and are not in the public domain.

By definition, a collective work must contain “a number of contributions.” A work that contains “relatively few separate elements” does not satisfy this requirement, such as a work containing a single contribution, a composition that merely consists of words and music, a **publication** that merely combines a single work with illustrations or front matter, or a publication that merely contains three one-act plays. **H.R. REP. NO. 94-1476, at 122**, *reprinted in* 1976 U.S.C.C.A.N. at 5737; **S. REP. NO. 94-473, at 105**.

As a general rule, a contribution that is “incorporated in a ‘collective work’ must itself constitute a ‘separate and independent’ work.” **H.R. REP. NO. 94-1476, at 122**, *reprinted in* 1976 U.S.C.C.A.N. at 5737; **S. REP. NO. 94-473, at 105**. In other words, a contribution must be an original work of authorship that is eligible for copyright protection under **Section 102(a)** of the Copyright Act, regardless of whether that contribution is currently protected or whether the copyright in that contribution has expired.

509.2 The Scope of the Copyright in a Collective Work

The “[c]opyright in each separate contribution to a collective work is distinct from copyright in the collective work as a whole.” **17 U.S.C. § 201(c)**.

The “[c]opyright in the separate contribution ‘vests initially in the author of the contribution.’” *New York Times Co. v. Tasini*, 533 U.S. 483, 494 (2001) (quoting **17 U.S.C. § 201(c)**). The “[c]opyright in the collective work vests in the collective author” and it “extends only to the creative material contributed by that author, not to ‘the preexisting material employed in the work.’” *Id.*

at 494 (quoting **17 U.S.C. § 103(b)**). Specifically, the copyright in the collective work “extend[s] to the elements of compilation and editing that went into [creating] the collective work as a whole.” **H.R. Rep. No. 94-1476, at 122**, reprinted in 1976 U.S.C.C.A.N. at 5738; **S. Rep. No. 94-473, at 106**. In addition, it extends to “the contributions that were written for hire by employees of the owner of the collective work, and those copyrighted contributions that have been transferred in writing to the owner by their authors.” **H.R. Rep. No. 94-1476, at 122**, reprinted in 1976 U.S.C.C.A.N. at 5738; **S. Rep. No. 94-473, at 106**.

An applicant may register a collective work together with the contributions contained therein (i) if the contributions and the collective work were created by the same author, or (ii) if the copyright in the contributions and the collective work are owned by the same **claimant**, (iii) provided that the contributions and the collective work have not been previously **published** or previously registered, and provided that they are not in the public domain. If the owner of the collective work does not own all rights in the copyright for a particular contribution, that party cannot register a **claim** to copyright in that contribution. Instead, the contribution must be registered individually by or on behalf of the author of the contribution or the party that owns the copyright in that work. See *Morris v. Business Concepts, Inc.*, 259 F.3d 65, 71 (2d Cir. 2001) (“Unless the copyright owner of a collective work also owns all the rights in a constituent part, a collective work registration will not extend to the constituent part.”), *abrogated on other grounds by Reed Elsevier, Inc. v. Muchnick*, 559 U.S. 154, 160 (2010).

Collective works often contain previously published material, previously registered material, **public domain** material, or material owned by a third party. If a collective work contains an appreciable amount of unclaimable material, the applicant generally should limit the claim to the new material that the author contributed to the work and the unclaimable material should be excluded from the claim. For guidance on this procedure, see **Chapter 600**, Section 621.8(D).

The author of a collective work may claim copyright in an original selection, coordination, and/or arrangement of preexisting material, provided that the material has been used in a lawful manner. **Section 103(a)** of the Copyright Act states that the copyright in a compilation “does not extend to any part of the work” that “unlawfully” uses preexisting material, and as discussed above, the term “compilation” includes collective works. As discussed in **Chapter 300**, Section 313.6(B), this provision is intended to prevent “an infringer from benefiting, through copyright protection, from committing an unlawful act.” **H.R. REP. NO. 94-1476, at 57**, reprinted in 1976 U.S.C.C.A.N. at 5671.

510 One Registration Per Work

As a general rule, the U.S. Copyright Office will issue only one basic registration for each work. **37 C.F.R. § 202.3(b)(11)**; **H.R. REP. NO. 94-1476, at 155**, reprinted in 1976 U.S.C.C.A.N. at 5771; **S. REP. NO. 94-473, at 138** (recognizing that there is a “general rule against allowing more than one registration (i.e., basic registration) for the same work”).

Allowing multiple registrations for the same work confuses the public record. Therefore, the Office will not knowingly issue multiple registrations for the same version of a particular work, and the Office generally will decline to issue additional registrations once a basic registration has been made. See **Part 202-Registration of Claims to Copyright, 43 Fed. Reg. 965, 965-66 (Jan. 5, 1978)**; **Applications for Registration of Claim to Copyright Under Revised Copyright Act, 42 Fed. Reg. 48,944, 48,945 (Sept. 26, 1977)**.

There are three limited exceptions to this rule, which are discussed in Sections 510.1 through 510.3.

510.1 Unpublished Works vs. Published Works

If the U.S. Copyright Office issued a registration for an **unpublished** work and if that work was **published** sometime thereafter, the Office will accept another application to register the first published edition of the work (even if the unpublished version and the published version are substantially the same). 17 U.S.C. § 408(e); 37 C.F.R. § 202.3(b)(11)(i).

When completing the application for the first published edition, the applicant should provide the registration number of the unpublished version using the procedure described in **Chapter 600**, Section 621.8(F). If the application for the first published edition is approved, the registration for that edition will exist alongside the registration for the unpublished version.

510.2 Naming the Author as the Copyright Claimant

An author may seek a registration naming himself or herself as the **copyright claimant**, even if the Office previously issued a registration that named a different individual or legal entity as the claimant for that work. See 37 C.F.R. § 202.3(b)(11)(ii). Likewise, a joint author may seek a registration naming himself or herself as the claimant, even if the joint work was previously registered by or on behalf of the other authors. See *id.* n.4. When completing the application, the applicant should provide the registration number for the previous registration using the procedure described in **Chapter 600**, Section 621.8(F).

In some cases, the author of a **collective work** may register that work without identifying the authors of the component works contained therein. The author of a component work may register that work in his or her own name in this situation, even if the Office previously registered the component work together with the collective work as a whole.

Allowing an author to register a work in his or her own name is consistent “with the fundamental thrust of the [Copyright Act of 1976] in identifying copyright, and the origin of all rights comprised in a copyright, with the author.” **Applications for Registration of Claim to Copyright Under Revised Copyright Act, 42 Fed. Reg. 48,944, 48,946 (Sept. 26, 1977)**. This may be useful where the author retains a reversionary interest in a contribution to a collective work and wants “to reflect his or her retained or continued legal or beneficial ownership of certain rights” in the copyright after it has been transferred to another party. *Id.* at 48,945.

This exception does not apply in cases where a third party previously registered the work and named the author as the copyright claimant.

This exception does not apply in cases involving a work made for hire. If the Office issued a registration that named the employer or other hiring party as the copyright claimant, the individual who actually created the work cannot obtain another registration in his or her own name unless the applicant is asserting an adverse claim. 37 C.F.R. § 202.3(b)(11)(ii) n.4. For information concerning adverse claims, see Section 510.3.

Likewise, this exception does not apply if the work was registered before January 1, 1978. If the work was registered before that date and if another party was named as the copyright claim-

ant, the Office will not issue another registration naming the author as the claimant. For more information on this issue, see [Chapter 2100](#), Section 2130, 2131, and 2134.

510.3 Adverse Claims

If the Office issued a registration for a work of authorship and another applicant subsequently alleges that the registration is unauthorized or legally invalid, the applicant may seek another registration for that same work. [37 C.F.R. § 202.3\(b\)\(11\)\(iii\)](#). In this situation, the applicant should prepare a new application using the procedure described in [Chapter 1800](#), Section 1808.

511 One Work Per Registration

As a general rule, a registration covers one individual work, and an applicant should prepare a separate application, [filing fee](#), and [deposit](#) for each work that is submitted for registration. See [17 U.S.C. §§ 408\(a\), 409](#) (authorizing the U.S. Copyright Office to register a single “work”).

Although the Office generally allows only one work per application, there are some limited exceptions to this rule. In the following cases, it may be possible to register multiple works with one application, one filing fee, and one set of [deposit copy\(ies\)](#):

- A [collective work](#) may be registered together with the separate and independent works contained therein (i) if the copyright in the collective work and the component works are owned by the same claimant, and (ii) if the component works have not been previously published, previously registered, and are not in the public domain. This option is discussed in [Section 509.1](#) and [Chapter 600](#), Sections 610.4, 613.8, 618.7, 620.8, and 621.8(D).
- A number of [published](#) works may be registered using the [unit of publication](#) option, which is discussed in [Chapter 1100](#), Section 1103.
- A [sound recording](#) may be registered together with a [literary work](#), musical work, or dramatic work, provided that (i) the sound recording and the recorded literary work, musical work, or dramatic work are embodied in the same [phonorecord](#), (ii) the [claimant](#) for both works is the same person or organization, (iii) the applicant selects Sound Recording from the Type of Work field when completing an online application or uses [Form SR](#) when completing a paper application, and (iv) the applicant submits a phonorecord that contains both the sound recording and the recorded literary work, musical work, or dramatic work.
- A group of related works may be registered using a [group registration](#) option. The Office currently offers group registration options for the following types of works:
 - Unpublished works
 - Serials
 - Newspapers
 - Newsletters
 - Contributions to periodicals

- Published photographs
- Unpublished photographs
- Database updates
- Questions, answers, and other test items that have been prepared for use in a secure test

For information concerning these group registration options, see [Chapter 1100](#), Sections 1105 through 1114.

512 Multiple Versions of the Same Work

The Copyright Act states that “a work is ‘created’ when it is fixed in a copy or phonorecord for the first time.” [17 U.S.C. § 101](#) (definition of “created”). The statute states that “where a work is prepared over a period of time, the portion of [the work] that has been fixed at any particular time constitutes the work as of that time.” *Id.* It also states that “where the work has been prepared in different versions, each version constitutes a separate work.” *Id.*

The copyright law protects each version of a work from the moment it is fixed in a copy or phonorecord, provided that the author contributed a sufficient amount of original expression to that version. [17 U.S.C. § 102\(a\)](#). For example, copyright protects each draft of a **literary work** from the moment it is written on paper, saved in a data file, or inscribed in any other medium of expression. Likewise, it protects each take of a **motion picture** from the moment it is captured on film, videotape, or any other audiovisual medium.

Although the copyright law generally protects each version of a work, it may not be necessary to register each version with the U.S. Copyright Office, depending on whether the work is published or unpublished. These issues are discussed in [Sections 512.1](#) and [512.2](#) below.

512.1 Unpublished Versions of the Same Work

If the work is **unpublished**, there is generally no need to register each version of that work. In most cases, the applicant may submit the most recent or the most complete version.

For example, if the author prepared multiple drafts for an unpublished screenplay, a registration for the most recent version will cover all of the **copyrightable** material that appears in the **deposit copy**, including any unpublished expression that has been incorporated from prior versions of the same work. Likewise, if the applicant intends to register an unpublished website that has been updated, modified, or revised from time to time, the registration will cover all of the copyrightable material that is submitted for registration, including any unpublished text, photographs, or other content that has been incorporated from prior iterations of the same website.

If the deposit copy contains copyrightable material that appeared in previous versions of the same work there is generally no need to exclude that preexisting material from the application unless that material has been previously **published** or previously registered or unless that material is in the **public domain** or is owned by a third party.

512.2 Published Versions of the Same Work

If the versions have been **published**, the applicant generally should submit a separate application, a separate **filing fee**, and a separate set of **deposit copies** for each version.

For example, if the author published multiple editions of a textbook, the applicant should submit a separate application for each edition. In each case, the registration will cover the new material that the author contributed to each edition, including any **copyrightable** changes, revisions, additions, or other modifications that appear in the deposit copies for that edition. Likewise, if the applicant intends to register a published website that has been updated, modified, or revised from time to time, the applicant should prepare a separate application for each version of that site. In each case, the registration will cover the text, photographs, or other copyrightable content that appeared on the website on the date specified in the application and the deposit copies.

The Office will register multiple versions of a published work, provided that each version contains a sufficient amount of copyrightable authorship that does not appear in the other versions. When submitting multiple versions of a published work for registration, the applicant should notify the Office by providing the title for each version, and if possible, the case number / service request number that has been assigned to each **claim**. In addition, the applicant should confirm in writing that the version specified in the application contains copyrightable authorship that does not appear in other versions. When filing an online application this information should be provided in the Note to Copyright Office field. When filing a paper application this information should be provided in a cover letter. This improves the efficiency of the examination process and produces more consistent registration decisions.

The applicant—not the U.S. Copyright Office—should identify the specific version or versions that the applicant intends to register. In making this determination, it may be helpful to consider the following questions:

- Does one version contain all of the copyrightable material that appears in the other versions of the same work?
- Were the versions published on the same date or on different dates?

These topics are discussed in Sections **512.2(A)** through **512.2(C)** below.

512.2(A) Registering Multiple Versions of a Published Work: More Complete Version Published First

If one version contains all the **copyrightable** material that appears in other versions of the same work and if that version was **published** first, the applicant should submit the most complete version. In this situation, the applicant should not submit an application to register other versions of the same work.

Example:

- The Elmwood Avenue Press published two versions of an elementary school textbook. The teacher's edition contains all the text and artwork that appears in the student's edition, plus additional instructions, questions, answers, and commentary. The teacher's edition was published on January 22, 2010 and the student's edition was published on February 1, 2010. The publisher may register the teacher's edition, but should not submit an application for the student's edition.

512.2(B) Registering Multiple Versions of a Published Work: Less Complete Version Published First

If one version contains some—but not all—of the **copyrightable** material that appears in other versions of the same work and if that version was **published** first, the applicant may register any or all of those versions. When completing the application for the more complete version(s) the applicant should exclude any material that appeared in the previously published versions of the same work using the procedure described in **Chapter 600**, Section 621.8.

Example:

- The Block Island Press published a calendar on June 1, 2011 that contains a number of photographs. On June 15, 2011, the company published a coffee table book containing the same photographs and some additional sketches. The publisher may submit a separate application for the calendar and the book. When completing the application for the calendar, the publisher should assert a **claim** in the photographs. When completing an application for the book, the publisher should assert a claim in the artwork, and should exclude the previously published photographs from the claim.

512.2(C) Registering Multiple Versions of a Published Work: Multiple Versions Published on the Same Date

If one version contains all the **copyrightable** material that appears in other versions of the same work and if all the versions were **published** on the same date, the applicant should submit the most complete version.

Example:

- Dice Drugs published two versions of a user manual on August 15, 2012. One version is written in English; the other version contains the same text written in English and Spanish. The publisher should submit an application to register the English/Spanish version.

If each version contains copyrightable material that does not appear in other versions of the same work and if all the versions were published on the same date, the applicant may submit a separate application for each version.

Example:

- On September 15, 2013 Coffee Cabinet LLC submits two applications for two versions of a novel which were published on September 1, 2013. One version is intended for British readers, while the other is an Americanized version that is intended for readers in the United States. In both cases, the applicant asserts a **claim** in text. The **registration specialist** will register both claims.

NOTE: When all of the versions are published on the same date there is no need to exclude any overlapping material that appears in each version because simultaneously published material is not considered previously published material for purposes of registration.