



The Inability to Submit Copyright Registration Application, Fee and/or Required Deposit for Published Works During the COVID-19 Emergency

The U.S. Copyright Office has established temporary procedures for submitting a copyright registration application, fee and/or deposit copies for published works during the COVID-19 emergency or after the emergency has ended.

Please review the scenarios described below and then choose the best option for submitting your work.

Applications and Deposit Copies Submitted Before the Emergency:

- If you already submitted your application and a copy of the work, you need take no further action. An examiner may contact you with further instructions via email, if necessary.

Submitting a New Registration Application and Deposit During the Emergency:

- If a physical copy of your work is **NOT required** for registration, you should file an online application through the electronic registration system (“eCO”) and upload a digital copy of your work with the application.
- If **a physical copy of your work is required** for registration, and if you are able to submit the required deposit copy(ies):
 - » Print a copy of the shipping slip that is generated by the eCO system; attach it to the deposit copy(ies); and send the shipping slip and the copy(ies) in the same package to the address specified on the shipping slip. You are not required to do anything else, but unless you choose to upload the optional copy of your work (next step), your claim will not be examined until the Registration Program’s staff returns to the Copyright Office building. However, your physical deposits will be date stamped upon receipt by the Office even while the building is closed and if your application is approved, your claim will receive the effective date of registration as of the date the physical deposit was received.
 - » In addition, you may optionally upload an electronic copy of your work to the eCO system; complete the deposit ticket declaration form (available here); and upload the completed declaration along with your application and digital deposit.

If you are unable to submit your application, fee, and/or deposit for a published work during the COVID-19 emergency:

Use the following option if you are unable to submit an application and fee during the COVID-19 emergency, OR if you can file an application and fee but **a physical copy of your work is required** for registration, and you are **unable to submit the required copy(ies)** due to this emergency :

- Complete the Section 710 Declaration on the following page. Include a brief statement explaining why you were unable to submit an application, fee and/or a physical copy of your work due to the COVID-19 pandemic. Examples of satisfactory evidence include, but are not limited to:

A statement that the applicant is subject to a stay-at-home order issued by a state or local government;

Or,

A statement that the applicant is required to submit a physical copy of the work, but is unable to access required physical materials due to closure of the business where they are located;

Or,

A statement that the applicant lacks internet access.

- If you are able to do so electronically, submit the completed 710 Declaration along with your application and filing fee. For instructions on how to upload a 710 Declaration, contact the Public Information Office:
 - » **By Email.** To send an email inquiry, click the *Contact Us* link on the Copyright Office website (<https://www.copyright.gov/help/>).
 - » **By Telephone.** Call the Public Information Office at (202) 707-3000 or 1-877-476-0778 (toll free).

If you are able to submit your application and fee, but not the required physical deposit, you must ensure that you print and save a “shipping slip” during the application process and send that shipping slip together with the physical deposit after the emergency ends. If you do not include a shipping slip with your physical deposit sent at a later date, the Office will not be able to connect that deposit to the electronic application.

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(continued)

- If you are unable to submit any of the three required parts of an application for registration – the electronic or physical application, the fee, and/or the required deposit – you may do so after the end of the national emergency. Submit the completed 710 Declaration together with your application materials at that time.
- A valid 710 Declaration will allow a court to extend the statutory deadline for eligibility for statutory damages and/or attorney’s fees as follows:

Registration Timing Requirements for Certain Statutory Remedies

Under section 412 of the Copyright Act, a copyright owner generally is eligible to be awarded statutory damages in an infringement action only if the work is registered prior to the infringement or within three months of the work’s first publication. The effective date of registration is the date when the Copyright Office receives the application, deposit, and fee.

In response to the national emergency, federal, state, and local governments have issued guidelines recommending against discretionary travel, and a number of states and localities have ordered the closure of nonessential businesses. As a result, the Copyright Office has become aware that some copyright owners of published works may be prevented from completing and submitting copyright applications in a timely manner due to lack of access to physical documents, including deposit copies of copyrighted works, or the inability to deliver materials to a mail carrier.

To mitigate the effect of this disruption, the Acting Register is temporarily adjusting the application of the timing provisions of section 412 to affected persons. These adjustments will follow a tiered approach:

- **For copyright applications that can be submitted entirely in electronic form** (i.e., those that do not require submission of a physical deposit), the timing provisions are unchanged.
- **If an applicant can submit an application electronically but is unable to submit a required physical deposit**, the applicant should upload, together with the application, a declaration or similar statement certifying, under penalty of perjury, that the applicant is unable to submit the physical deposit and would have done so but for the national emergency, and setting forth satisfactory evidence in support. If this requirement is met, and the

three-month window for registration after the date of first publication was open as of March 13, 2020, the window will be extended such that the applicant will be eligible for the remedies under section 412, provided that the applicant submits the required deposit within thirty days after the date the disruption has ended, as stated in a public announcement by the Acting Register. Examples of satisfactory evidence include, but are not limited to:

- » a statement that the applicant is subject to a stay-at-home order issued by a state or local government; or
- » a statement that the applicant is unable to access required physical materials due to closure of the business where they are located.

- **If an applicant is unable to submit an application electronically or physically during the disruption**, the applicant may submit an application after the Acting Register has announced the end of the disruption, and include a declaration or similar statement certifying, under penalty of perjury, that the applicant was unable to submit an application electronically or physically and would have done so but for the national emergency, and providing satisfactory evidence in support. If this requirement is met, the three-month window under section 412 will be tolled between March 13, 2020, and the date that the disruption has ended. For example, if a work was first published on February 13, 2020, the applicant would have two months following the end of the disruption to register the work in order to be eligible for the remedies under section 412. Satisfactory evidence for purposes of this option includes, but is not limited to:

- » a statement that the applicant did not have access to a computer and/or the internet; or
- » a statement that the applicant was prevented from accessing or sending required physical materials for reasons such as those noted above.

Where the Acting Register finds satisfactory evidence that the applicant was affected by the national emergency, the Copyright Office will annotate the registration record to reflect that determination.



Section 710 Declaration

Under penalty of perjury under the laws of the United States of America,

The undersigned, as the applicant or the applicant's duly authorized agent or representative, hereby declares that:

A. I was unable to submit an application, fee and/or deposit for copyright registration of a published work within three months of the work's first publication due to the COVID-19 pandemic and I would have done so but for this emergency;

OR

B. I submitted an online application and fee for copyright registration of a published work within three months of the work's first publication and I am required to submit a physical copy(ies) of my work, but I am/was unable to do so due to the COVID-19 pandemic, and I would have submitted the required physical copy(ies) but for this emergency;

And, I am able to provide satisfactory evidence in support of the above statements:

(please provide a statement briefly describing satisfactory evidence in support of this declaration)

I acknowledge that any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by 17 U.S.C. § 409, or in any written statement filed in connection with the application, is subject to criminal penalties under 18 U.S.C. § 1001(a)(2).

Printed Name: _____ Date: _____