

Copyright Registration for Computer Programs

A “computer program” is a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result.

Copyright protection extends to all the copyrightable expression embodied in the computer program. Copyright protection is not available for ideas, program logic, algorithms, systems, methods, concepts, or layouts.

Registering a Copyright with the U.S. Copyright Office

An application for copyright registration contains three essential elements: a completed application form, a nonrefundable filing fee, and a nonreturnable deposit—that is, a copy or copies of the work being registered and “deposited” with the Copyright Office.

You may register basic claims¹ for literary works; visual arts works; performing arts works, including motion pictures; sound recordings; and single serials online by using the electronic Copyright Office (eCO) at www.copyright.gov, or you may register on a paper application form.

The Application

Completing the Online Application for a Computer Program

NOTE: These points do not cover all the required information on the application. Be sure to refer to the online instructions and the eCO tutorial before completing the application.

Author Created · In the “Author Created” space, describe the copyrightable authorship in the computer program for which registration is sought. Acceptable statements include “computer program,” “text of user’s manual and computer program,” etc. Do not refer to design, physical form, hardware, or algorithm. Do not describe the program’s features or functions.

Year of Completion · Give the year of completion and the exact date of first publication, if any, for the particular version of the computer program for which registration is sought.

Limitation of Claim · Complete this part of the application if the computer program contains a substantial amount of previously published, registered, or public domain material such as subroutines or modules, or if the work was developed using an underlying computer program or authoring tool. “Material excluded” may state “previous version.” Typical examples of descriptions of “New material included” are “computer program” and “revised version.” Do not

refer to debugging, error corrections, new functions of the revised program, or other elements that cannot be registered.

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

NOTE: Hard-copy deposits are required for most published works to fulfill the mandatory deposit requirements. You can still register online and save money even if you will submit a hard-copy deposit. After paying the filing fee online, you may choose either to upload digital copies or to mail physical copies. Instructions for both options are provided. A shipping slip is created to mail together with your hard copies.

Completing a Paper Application Form for a Computer Program

You can also register your copyright using a paper form. Instructions accompany the paper forms. To access all forms, go to the Copyright Office website and click on *Forms*. Choose the form representing the type most appropriate to the predominant authorship. Because computer programs are literary works, registration as a “Literary Work” (Form TX) is usually appropriate.

However, if pictorial or graphic authorship predominates, registration as a “Visual arts work” (Form VA) may be made. Similarly, if motion picture authorship or audiovisual material predominate, registration as a “Motion picture/audiovisual work” (Form PA) may be made.

On your personal computer, complete the form, print it out, and mail it with a check or money order and your deposit. Blank forms can also be printed out and completed by hand, or they may be requested by postal mail or by calling the Forms and Publications Hotline at (202) 707-9100 (limit of two copies of each form by mail). Remember that online registration through eCO can be used for these types of applications.

Mailing Addresses for Applications Filed on Paper and for Hard-copy Deposits

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

The Fee

Copyright Office fees are not refundable, and they are subject to change. For current fees, check the Copyright Office

website at www.copyright.gov, write the Copyright Office, or call (202) 707-3000 or 1-877-475-0778 (toll free).

The Deposit

Computer Programs without Trade Secrets

For published or unpublished computer programs, send one copy of identifying portions of the program (first 25 and last 25 pages of source code) reproduced in a form visually perceptible without the aid of a machine or device, either on paper or in microform, together with the page or equivalent unit containing the copyright notice, if any. Online registration is ideal for computer programs not embodied in a CD-ROM. The source code may be uploaded electronically, preferably in PDF format.

For a program less than 50 pages in length, send a visually perceptible copy of the entire source code. For a revised version of a program that has been previously published or previously registered or that is in the public domain, if the revisions occur throughout the entire program, send the page containing the copyright notice, if any, and the first 25 and last 25 pages of source code. If the revisions are not contained in the first 25 and last 25 pages, send any 50 pages representative of the revised material in the new program, together with the page or equivalent unit containing the copyright notice, if any, for the revised version.

In any case where the program is so structured that it has no identifiable beginning or end, the applicant should make a determination as to which pages may reasonably represent the first 25 and last 25 pages.

If an applicant is unable or unwilling to deposit source code, the applicant must state in writing that the work as deposited in object code contains copyrightable authorship. The Office will then register the work under its rule of doubt since it has not determined the existence of copyrightable authorship.

If a published user’s manual or other printed documentation accompanies the computer program, deposit one copy of the user’s manual along with one copy of the identifying material for the program.

NOTE: Such manuals must generally be mailed rather than uploaded electronically to the Copyright Office.

For programs written in JavaScript® and other scripted languages, the script is considered the equivalent of source code. Thus, the same number of pages of script would be required as is required for source code. Reproductions of on-screen text, buttons, and commands are not an appropriate substitute for this source code deposit. Where a scripted pro-

gram contains trade secrets, the deposit of script pages must meet the requirements below.

NOTE: When a computer program is embodied in a CD-ROM, ordinarily the entire CD-ROM package must be mailed to the Copyright Office, including a complete copy of any accompanying operating software and instructional manual. If registration is sought for the computer program, the deposit should also include a printout of the first 25 and last 25 pages of source code for the program.

Computer Programs Containing Trade Secrets

Where a computer program contains trade secret material, include a cover letter stating that the claim contains trade secrets, along with the page containing the copyright notice, if any. Include a source code deposit as described below. The source code may be uploaded electronically with the exceptions noted above.

Entirely new computer programs

- First 25 and last 25 pages of source code with portions containing trade secrets blocked out, or
- First 10 and last 10 pages of source code alone, with no blocked out portions, or
- First 25 and last 25 pages of object code plus any 10 or more consecutive pages of source code, with no blocked-out portions, or
- For programs 50 pages or less in length, entire source code with trade secret portions blocked out

Revised computer programs

If the revisions are present in the first 25 and last 25 pages, any one of the four options above, as appropriate, or if the revisions are not present in the first 25 and the last 25 pages:

- 20 pages of source code containing the revisions with no blocked out portions, or
- any 50 pages of source code containing the revisions with some portions blocked out

NOTE: Whenever portions of code are blocked out, the following requirements must be met:

- 1 the blocked out portions must be proportionately less than the material remaining; and
- 2 the visible portion must represent an appreciable amount of original computer code.

Points to Remember

Each separately published version of a computer program that contains new, copyrightable authorship *must be registered separately*, with a new application and fee. Registration of the first version may extend to the entire work if it contains no previously published or registered portions and if the claimant is the same for both.

Registration of any subsequent version covers only the new or revised material added to that version. The version of the work that is deposited should be the same version described on the application; thus, the title and dates on the application should correspond with those on the deposit copy.

NOTE: If the version to be registered is no longer available, it may be possible to register it using a later version under a grant of special relief. In this case, submit a written request for special relief to the Copyright Office, Attention: Registration Program. Explain why the required version is not available and indicate what percentage of the authorship from the version to be registered remains in the version you are depositing. Your request will be evaluated upon receipt.

If the deposit material for the computer program has a copyright notice containing multiple year dates, the Copyright Office will question whether the particular program is a revised or derivative version if the “Limitation of Claim” area of the application has not been completed. If the program is not a derivative work and if the multiple year dates in the notice refer to *internal* revisions or *the history of development* of the program, please put that information in a cover letter to help speed processing. If registering online, give this explanation as a “Note to Copyright Office” in the space provided.

If the deposit material for the computer program does not give a printed title and/or version indicator, please add the title and any indicia that can be used in identifying the particular program.

How to Register a Computer Program and Its Screen Displays

A single registration may be made for a computer program and its screen displays. When answering the “Type of work being registered” in eCO, choose the type most appropriate to the predominant authorship. Because computer programs are literary works, registration as a “Literary Work” is usually appropriate. However, if pictorial or graphic authorship predominates, registration as a “Work of the Visual Arts” may be made. Similarly, if motion picture authorship or audiovisual

material predominates, registration as a “Motion picture/ audiovisual work” may be made.

The registration will extend to any copyrightable screens generated by the program, regardless of whether identifying material for the screens is deposited.

Option 1: Answer “computer program” to the “Author Created” question. In this case, deposit the source code as described above. Depositing identifying material for screens is optional.

Option 2: Answer “computer program, including text of screen displays,” or “computer program including audiovisual material” or “computer program including artwork on screen displays” in the “Other” portion of the “Author Created” question. In this case, you must deposit identifying material for the screen displays in addition to the required source code. Identifying material for the screen displays should consist of images or printouts clearly revealing the screens. If using online registration, images of the screens may be uploaded electronically to the electronic Copyright Office. For works that are predominantly audiovisual, such as video games, ½-inch VHS videotapes, CD-ROMs, or DVDs, an upload of the audiovisual material to eCO (provided the file is not too large to upload) is acceptable. Note, too, that if the screens are reproduced in an accompanying manual, the manual will suffice as identifying material.

The identifying material will be examined for copyrightability. When the screens are essentially not copyrightable (e.g., de minimis menu screens, blank forms, or the like), the application should not refer to screens. The description of authorship on the application should not refer to elements such as “menu screens,” “structure, sequence and organization,” “layout,” “format,” or the like.

NOTE: Registration of html or other formatting code for a website does not automatically cover any visible or audible copyrightable elements that are generated by the code. To register those portions of an online work, the entire copyrightable content must be deposited. It is possible to register the computer program together with the online work, but the deposit requirements for both the program and the online work must be fulfilled. See Circular 66, *Copyright Registration for Online Works*, for important information on the required deposit and how to complete the application when registering online works.

Screen Displays

Copyright protection for computer screen displays, including video games, has been an issue in the courts for some time.

Courts have differed in their opinions regarding whether screen displays may be registered separately.

The Copyright Office has consistently believed that a single registration is sufficient to protect the copyright in a computer program and related screen displays, including video games, without a separate registration for the screen displays or a specific reference to them on the application for the computer program. An application may give a general description in the “Author Created” space, such as “computer program.” This description will cover any copyrightable authorship contained in the computer program and screen displays, regardless of whether identifying material for the screens is deposited.

A specific claim in the screen displays may be asserted on the application. In such a case, identifying materials for the screens must be deposited.

Effective Date of Registration

When the Copyright Office issues a registration certificate, it assigns as the effective date of registration the date it received all required elements—an application, a nonrefundable filing fee, and a nonreturnable deposit—in acceptable form, regardless of how long it took to process the application and mail the certificate. You do not have to receive your certificate before you publish or produce your work, nor do you need permission from the Copyright Office to place a copyright notice on your work. However, the Copyright Office must have acted on your application before you can file a suit for copyright infringement, and certain remedies, such as statutory damages and attorney’s fees, are available only for acts of infringement that occurred after the effective date of registration. If a published work was infringed before the effective date of registration, those remedies may also be available if the effective date of registration is no later than 90 days after the first publication of the work.

If you apply for copyright registration using a paper application, you will not receive an acknowledgment that your application has been received (the Office receives more than 600,000 applications annually), but you can expect

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

Requests to have certificates available for pickup in the Copyright Office or to have certificates sent by a mail service cannot be honored. If you want to know the date that the

Copyright Office receives your paper application or hard-copy deposit, send it by registered or certified mail and request a return receipt.

For Further Information

By Internet

Circulars, announcements, regulations, and all applications forms are available from the Copyright Office website at www.copyright.gov. To send an email communication, click on *Contact Us* at the bottom of the home page

By Telephone

For general information about copyright, call the Copyright Public Information Office at (202) 707-3000 or 1-877-476-0778 (toll free). Staff members are on duty from 8:30 AM to 5:00 PM, eastern time, Monday through Friday, except federal holidays. Recorded information is available 24 hours a day. To request paper application forms or circulars, call the Forms and Publications Hotline at (202) 707-9100 and leave a recorded message.

By Regular Mail

Write to:

*Library of Congress
Copyright Office—COPUBS
101 Independence Avenue SE
Washington, DC 20559*

Note

1. Basic claims include (1) a single work; (2) multiple unpublished works if the elements are assembled in an orderly form; the combined elements bear a single title identifying the collection as a whole; the copyright claimant in all the elements and in the collection as a whole is the same; and all the elements are by the same author, or, if they are by different authors, at least one of the authors has contributed copyrightable authorship to each element; and (3) multiple published works if they are all first published together in the same publication on the same date and owned by the same claimant.