

*Copyright Laws and Regulations*

**PART 202 REGISTRATION OF CLAIMS TO COPYRIGHT**

*Authority: Sec. 702, 90 Stat. 2541. 17 U.S.C. 702; §§ 202.3, 202.19, 202.20, 202.21, and 202.22 are also issued under 17 U.S.C. 407 and 408.*

**37 CFR 202.1 Material not subject to copyright.**

The following are examples of works not subject to copyright and applications for registration of such works cannot be entertained:

(a) Words and short phrases such as names, titles, and slogans; familiar symbols or designs; mere variations of typographic ornamentation, lettering or coloring; mere listing of ingredients or contents;

(b) Ideas, plans, methods, systems, or devices, as distinguished from the particular manner in which they are expressed or described in a writing;

(c) Blank forms, such as time cards, graph paper, account books, diaries, bank checks, scorecards, address books, report forms, order forms and the like, which are designed for recording information and do not in themselves convey information;

(d) Works consisting entirely of information that is common property containing no original authorship, such as, for example: Standard calendars, height and weight charts, tape measures and rulers, schedules of sporting events, and lists or tables taken from public documents or other common sources.

(e) Typeface as typeface.

*[24 FR 4956, June 18, 1959, as amended at 38 FR 3045, Feb. 1, 1973; 57 FR 6202, Feb. 21, 1992]*

**37 CFR 202.2 Copyright notice.**

(a) General

(1) With respect to a work published before January 1, 1978, copyright was secured, or the right to secure it was lost, except for works seeking ad interim copyright, at the date of publication, i.e., the date on which copies are first placed on sale, sold, or publicly distributed, depending upon the adequacy of the notice of copyright on the work at that time. The adequacy of the copyright notice for such a work is determined by the copyright statute as it existed on the date of first publication.

(2) If before January 1, 1978, publication occurred by distribution of copies or in some other manner, without the statutory notice or with an inadequate notice, as determined by the copyright statute as it existed on the date of first publication, the right to secure copyright was lost. In such cases, copyright cannot be secured by adding the notice to copies distributed at a later date.

(3) Works first published abroad before January 1, 1978, other than works for which ad interim copyright has been obtained, must have borne an adequate copyright notice. The adequacy of the copyright notice for such works is determined by the copyright statute as it existed on the date of first publication abroad.

(b) Defects in notice. Where the copyright notice on a work published before January 1, 1978, does not meet the requirements of title 17 of the United States Code as it existed on December 31, 1977, the Copyright Office will reject an application for copyright registration. Common defects in the notice include, among others the following:

(1) The notice lacks one or more of the necessary elements (i.e., the word "Copyright," the abbreviation "Copr.," or the symbol (the letter C in a circle), or, in the case of a sound recording, the symbol (three horizontal lines with a diagonal line cutting across them); the name of the copyright proprietor, or, in the case of a sound recording, the name, a recognizable abbreviation of the name, or a generally known alternative designation, of the copyright owner; and, when required, the year date of publication);

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- (2) The elements of the notice are so dispersed that a necessary element is not identified as a part of the notice; in the case of a sound recording, however, if the producer is named on the label or container, and if no other name appears in conjunction with the notice, his name will be considered a part of the notice;
- (3) The notice is not in one of the positions prescribed by law;
- (4) The notice is in a foreign language;
- (5) The name in the notice is that of someone who had no authority to secure copyright in his name;
- (6) The year date in the copyright notice is later than the date of the year in which copyright was actually secured, including the following cases:
  - (i) Where the year date in the notice is later than the date of actual publication;
  - (ii) Where copyright was first secured by registration of a work in unpublished form, and copies of the same work as later published without change in substance bear a copyright notice containing a year date later than the year of unpublished registration;
  - (iii) Where a book or periodical published abroad, for which ad interim copyright has been obtained, is later published in the United States without change in substance and contains a year date in the copyright notice later than the year of first publication abroad: Provided, however, That in each of the three foregoing types of cases, if the copyright was actually secured not more than one year earlier than the year date in the notice, registration may be considered as a doubtful case.
- (7) A notice is permanently covered so that it cannot be seen without tearing the work apart;
- (8) A notice is illegible or so small that it cannot be read without the aid of a magnifying glass: Provided, however, That where the work itself requires magnification for its ordinary use (e.g., a microfilm, microcard or motion picture) a notice which will be readable when so magnified, will not constitute a reason for rejection of the claim;
- (9) A notice is on a detachable tag and will eventually be detached and discarded when the work is put in use;
- (10) A notice is on the wrapper or container which is not a part of the work and which will eventually be removed and discarded when the work is put to use; the notice may be on a container which is designed and can be expected to remain with the work;
- (11) The notice is restricted or limited exclusively to an uncopyrightable element, either by virtue of its position on the work, by the use of asterisks, or by other means.

*[24 FR 4956, June 18, 1959; 24 FR 6163, July 31, 1959, as amended at 37 FR 3055, Feb. 11, 1972; 46 FR 33249, June 29, 1981; 46 FR 34329, July 1, 1981]*

### **37 CFR 202.3 Registration of copyright.**

#### (a) General

- (1) This section prescribes conditions for the registration of copyright, and the application to be made for registration under sections 408 and 409 of title 17 of the United States Code, as amended by Pub. L. 94-553.
- (2) For the purposes of this section, the terms audiovisual work, compilation, copy, derivative work, device, fixation, literary work, motion picture, phonorecord, pictorial, graphic and sculptural works, process, sound recording, and their variant forms, have the meanings set forth in section 101 of title 17. The term author

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includes an employer or other person for whom a work is "made for hire" under section 101 of title 17.

- (3) For the purposes of this section, a copyright claimant is either:
- (i) The author of a work;
  - (ii) A person or organization that has obtained ownership of all rights under the copyright initially belonging to the author.<sup>1</sup>

(b) Administrative classification and application forms-

- (1) Classes of works. For the purpose of registration, the Register of Copyrights has prescribed the classes of works in which copyright may be claimed. These classes, and examples of works which they include, are as follows:
- (i) Class TX: Nondramatic literary works. This class includes all published and unpublished nondramatic literary works. Examples: Fiction; nonfiction; poetry; textbooks; reference works; directories; catalogs; advertising copy; and compilations of information.
  - (ii) Class PA: Works of the performing arts. This class includes all published and unpublished works prepared for the purpose of being performed directly before an audience or indirectly by means of a device or process. Examples: Musical works, including any accompanying words; dramatic works, including any accompanying music; pantomimes and choreographic works; and motion pictures and other audiovisual works.
  - (iii) Class VA: Works of the visual arts. This class includes all published and unpublished pictorial, graphic, and sculptural works. Examples: Two dimensional and three dimensional works of the fine, graphic, and applied arts; photographs; prints and art reproductions; maps, globes, and charts; technical drawings, diagrams, and models; and pictorial or graphic labels and advertisements.
  - (iv) Class SR: Sound recordings. This class includes all published and unpublished sound recordings fixed on and after February 15, 1972. Claims to copyright in literary, dramatic, and musical works embodied in phonorecords may also be registered in this class under paragraph (b)(3) of this section if: (A) Registration is sought on the same application for both a recorded literary, dramatic, or musical work and a sound recording; (B) the recorded literary, dramatic, or musical work and the sound recording are embodied in the same phonorecord; and (C) the same claimant is seeking registration of both the recorded literary, dramatic, or musical work and the sound recording.
  - (v) Class SE: Serials. A serial is a work issued or intended to be issued in successive parts bearing numerical or chronological designations and intended to be continued indefinitely. This class includes periodicals; newspapers; annuals; and the journals, proceedings, transactions, etc. of societies.
- (2) Application forms. For the purpose of registration, The Register of Copyrights has prescribed the basic forms to be used for all applications submitted on and after January 1, 1978. Each form corresponds to a class set forth in paragraph (b)(1) of this section and is so designated ("Form TX"; "Form PA"; "Form VA"; "Form SR"; "Form SE"; and "Form SE/Group"). Copies of the forms are available free upon request to the Public Information Office, United States Copyright Office, Library of Congress, Washington, DC 20559. Applications should be submitted in the class

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<sup>1</sup> This category includes a person or organization that has obtained, from the author or from an entity that has obtained ownership of all rights under the copyright initially belonging to the author, the contractual right to claim legal title to the copyright in an application for copyright registration.

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most appropriate to the nature of the authorship in which copyright is claimed. In the case of contributions to collective works, applications should be submitted in the class representing the copyrightable authorship in the contribution. In the case of derivative works, applications should be submitted in the class most appropriately representing the copyrightable authorship involved in recasting, transforming, adapting, or otherwise modifying the preexisting work. In cases where a work contains elements of authorship in which copyright is claimed which fall into two or more classes, the application should be submitted in the class most appropriate to the type of authorship that predominates in the work as a whole. However, in any case where registration is sought for a work consisting of or including a sound recording in which copyright is claimed<sup>2</sup> the application shall be submitted on Form SR. Separate application in Class SR is not appropriate for these elements.

- (3) Registration as a single work.
- (i) For the purpose of registration on a single application and upon payment of a single registration fee, the following shall be considered a single work:
- (A) In the case of published works: All copyrightable elements that are otherwise recognizable as self-contained works, that are included in a single unit of publication, and in which the copyright claimant is the same; and
- (B) In the case of unpublished works: all copyrightable elements that are otherwise recognizable as self-contained works, and are combined in a single unpublished "collection." For these purposes, a combination of such elements shall be considered a "collection" if:
- (1) The elements are assembled in an orderly form;
  - (2) the combined elements bear a single title identifying the collection as a whole;
  - (3) the copyright claimant in all of the elements, and in the collection as a whole, is the same; and
  - (4) all of 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.
- Registration of an unpublished "collection" extends to each copyrightable element in the collection and to the authorship, if any, involved in selecting and assembling the collection.
- (ii) In the case of applications for registration made under paragraphs (b)(3) through (b)(8) of this section, the "year in which creation of this work was completed", as called for by the application, means the latest year in which the creation of any copyrightable element was completed.
- (4) Group registration of related works: Automated databases.
- (i) Pursuant to the authority granted by section 408(c)(1) of title 17 of the United States Code, the Register of Copyrights has determined that, on the basis of a single application, deposit, and filing fee, a single registration may be made for automated databases and their updates or other derivative versions that are original works of authorship, if, where a database (or updates or other revisions thereof), if unpublished, is (or are) fixed, or if published is (or are) published only in the form of machine-

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<sup>2</sup> A sound recording does not include the sounds accompanying a motion picture or other audiovisual work (17 U.S.C. 101). For this purpose, "accompanying" does not require physical integration in the same copy. Accordingly, registration may be made for a motion picture or audiovisual kit in Class PA and that registration will cover the sounds embodied in the "sound track" of the motion picture or on disks, tapes, or the like included in the kit.

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- readable copies, all of the following conditions are met:
- (A) All of the updates or other revisions are owned by the same copyright claimant;
  - (B) All of the updates or other revisions have the same general title;
  - (C) All of the updates or other revisions are similar in their general content, including their subject;
  - (D) All of the updates or other revisions are similar in their organization;
  - (E) Each of the updates or other revisions as a whole, if published before March 1, 1989, bears a statutory copyright notice as first published and the name of the owner of copyright in each work (or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner) was the same in each notice;
  - (F) Each of the updates or other revisions if published was first published, or if unpublished was first created, within a three-month period in a single calendar year; and
  - (G) The deposit accompanying the application complies with § 202.20(c)(2)(vii)(D).
- (ii) A single registration may be made on one application for both a database published on a single date, or if unpublished, created on a single date, and also for its copyrightable revisions, including updates covering a three-month period in a single calendar year. An application for group registration of automated databases under section 408(c)(1) of title 17 and this subsection shall consist of:
- (A) A Form TX, completed in accordance with the basic instructions on the form and the Special Instructions for Group Registration of an Automated Database and its Updates or Revisions;
  - (B) A filing fee of \$20; and
  - (C) The deposit required by § 202.20(c)(2)(vii)(D).
- (5) Group registration of related serials.
- (i) Pursuant to the authority granted by section 408(c)(1) of title 17 of the United States Code, the Register of Copyrights has determined that, on the basis of a single application, deposit, and filing fee, a single registration may be made for a group of serials published at intervals of a week or longer if all the following conditions are met:
    - (A) The Library of Congress receives two complimentary copies promptly after publication of each issue of the serial.
    - (B) The single application covers no more than the issues published in a given three month period.
    - (C) The claim to copyright for which registration is sought is in the collective work.
    - (D) The collective work authorship is essentially new material that is being published for the first time.
    - (E) The collective work is a work made for hire.
    - (F) The author(s) and claimant(s) of the collective work are the same person(s) or organization(s).
    - (G) Each issue must have been created no more than one year prior to publication and all issues included in the group registration must have been published in the same calendar year.
  - (ii) To be eligible for group registration of serials, publishers must submit a letter affirming that two complimentary subscriptions to the particular

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- serial have been entered for the Library of Congress. The letter should be sent to: Office of the General Counsel, Copyright Office, Library of Congress, Department 17, Washington, DC 20540.
- (iii) The complimentary subscription copies must be addressed to: Group Periodicals Registration Library of Congress, Washington, DC 20540.
  - (iv) The Register of Copyrights may revoke the privilege of group registration of serials for any publisher who fails to submit the required complimentary subscription copies promptly after publication of each issue. Notice of revocation of the group registration of serials privilege shall be given in writing and shall be sent to the individual person or organization applying for group registration of serials, at the last address shown in the records of the Copyright Office. A notice of revocation may be given at any time if the requirements of the regulation are not satisfied, but it shall state a specific date of revocation that is at least 30 days later than the date the notice is mailed.
  - (v) To apply for group registration of serials under section 408(c)(1) of title 17 and this subsection, the following items must be sent together in the same package:
    - (A) A completed Form SE/Group giving the requested information.
    - (B) A filing fee of \$10 for each issue covered by the group registration.
    - (C) A deposit consisting of one complete copy of the best edition of each issue included in the group registration.
- (6) Group registration of daily newspapers.
- (i) Pursuant to the authority granted by 17 U.S.C. 408(c)(1), the Register of Copyrights has determined that, on the basis of a single application, microfilm deposit, and filing fee, a single registration may be made for a group of daily newspapers published in a microfilm format if the following conditions are met:
    - (A) Registration covers a full month of issues of the same newspaper title published with issue dates in one calendar month.
    - (B) A completed GDN application form is submitted.
    - (C) A publication date is specified designating the first and last day that issues in the group were published.
    - (D) A deposit is made of positive, 35mm silver halide microfilm meeting the Library's best edition criteria that includes all issues published as final editions in the designated calendar month. In addition to the final edition of the daily newspaper, the claim to copyright and the deposit may also include earlier editions published the same day in a given metropolitan area served by the newspaper, but may not include national or regional editions distributed beyond a given metropolitan area.
    - (E) A nonrefundable filing fee of \$40 is included with the submission, or charged to an active deposit account.
    - (F) Registration is sought within three months after the publication date of the last issue included in the group.
  - (ii) As used in this regulation, newspapers means serials which are classified as newspapers under the policy document "Newspapers Received Currently in the Library of Congress," which is administered by the Newspaper Section of the Serials & Government Publications Division of the Library of Congress. In general, serials classified as newspapers are serials mainly designed to be a primary source of written information on current events, either local, national, or international in scope. A newspaper contains a broad range of news on all subjects and activities

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and is not limited to any specific subject matter. Newspapers are intended either for the general public or for a particular ethnic, cultural, or national group.

- (7) Group registration of contributions to periodicals.
- (i) As provided by section 408(c)(2) of title 17 of the United States Code, as amended by Pub. L. 94-553, a single registration, on the basis of a single application, deposit, and registration fee, may be made for a group of works if all of the following conditions are met:
- (A) All of the works are by the same author;
  - (B) The author of each work is an individual, and not an employer or other person for whom the work was made for hire;
  - (C) Each of the works first published as a contribution to a periodical (including newspapers) within a twelve-month period;<sup>3</sup>
  - (D) Each of the works, if first published before March 1, 1989, bore a separate copyright notice, and the name of the owner of copyright in each work (or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner) was the same in each notice; and
  - (E) The deposit accompanying the application consists of one copy of the entire issue of the periodical, or of the entire section in the case of a newspaper, in which each contribution was first published.
- (ii) An application for group registration under section 408(c)(2) of title 17 and this § 202.3(b)(7) shall consist of:
- (A) A basic application for registration on Form TX, Form PA, or Form VA,<sup>4</sup> which shall contain the information required by the form and its accompanying instructions;
  - (B) An adjunct form prescribed by the Copyright Office and designated "Adjunct Application for Copyright Registration for a Group of Contributions to Periodicals (Form GR/CP)", which shall contain the information required by the form and its accompanying instructions; and
  - (C) A fee of \$20 and the deposit required by paragraph (b)(7)(i)(E) of this section.
- (8) Group registration of daily newsletters. Pursuant to the authority granted by 17 U.S.C. 408(c)(1), the Register of Copyrights has determined that, on the basis of a single application, deposit, and filing fee, a single registration may be made for a group of two or more issues of a daily newsletter if the following conditions are met:
- (i) As used in this regulation, daily newsletter means a serial published and distributed by mail or electronic media (online, telefacsimile, cassette tape, diskette or CD-ROM). Publication must occur at least two days per week and the newsletter must contain news or information of interest chiefly to a special group (for example, trade and professional associations, corporate house organs, schools, colleges, and churches).
- (ii) The works must be essentially all new collective works or all new issues

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<sup>3</sup> This does not require that each of the works must have been first published during the same calendar year; it does require that, to be grouped in a single application, the earliest and latest contributions must not have been first published more than twelve months apart.

<sup>4</sup> The basic application should be filed in the class appropriate to the nature of authorship in the majority of the contributions. However, if any of the contributions consists preponderantly of nondramatic literary material that is in the English language, the basic application for the entire group should be submitted on Form TX.

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- that have not been published before.
- (iii) Each issue must be a work made for hire.
  - (iv) The author(s) and claimant(s) must be the same person(s) or organization(s) for all of the issues.
  - (v) All the items in the group must bear issue dates within a single calendar month under the same continuing title.
  - (vi) If requested in writing by the Copyright Acquisitions Division of the Library of Congress, the publisher of the newsletter must give the Library of Congress up to two complimentary subscriptions of the newsletter in the edition most suitable to the Library's needs. Subscription copies must be mailed or transmitted to the separate address specified by the Copyright Acquisitions Division in its request. Subscription copies are not required unless expressly requested by the Library of Congress.
  - (vii) A Form SE/Group shall be submitted for daily newsletters bearing issue dates within a single month, together with one copy of each issue, and a filing fee of \$10 for each issue included in the group registration.
- (9) One registration per work. As a general rule only one copyright registration can be made for the same version of a particular work. However:
- (i) Where a work has been registered as unpublished, another registration may be made for the first published edition of the work, even if it does not represent a new version;
  - (ii) Where someone other than the author is identified as copyright claimant in a registration, another registration for the same version may be made by the author in his or her own name as copyright claimant;<sup>5</sup>
  - (iii) Where an applicant for registration alleges that an earlier registration for the same version is unauthorized and legally invalid, a registration may be made by that applicant; and
  - (iv) Supplementary registrations may be made, under the conditions of § 201.5 of these regulations, to correct or amplify the information in a registration made under this section.
- (c) Application for registration
- (1) An application for copyright registration may be submitted by any author or other copyright claimant of a work, or the owner of any exclusive right in a work, or the duly authorized agent of any such author, other claimant, or owner.
  - (2) An application for copyright registration shall be submitted on the appropriate form prescribed by the Register of Copyrights under paragraph (b) of this section, and shall be accompanied by a fee of \$20 and the deposit required under 17 U.S.C. 408 and § 202.20 of these regulations.<sup>6</sup> The application shall contain the information required by the form and its accompanying instructions, and shall include a certification. The certification shall consist of:
    - (i) A designation of whether the applicant is the author of, or other copyright

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<sup>5</sup> An author includes an employer or other person for whom a work is "made for hire" under 17 U.S.C. 101. This paragraph does not permit an employee or other person working "for hire" under that section to make a later registration in his or her own name. In the case of authors of a joint work, this paragraph does permit a later registration by one author in his or her own name as copyright claimant, where an earlier registration identifies only another author as claimant.

<sup>6</sup> In the case of applications for group registration of newspapers, contributions to periodicals, and newsletters, under paragraphs (b)(6), (b)(7), and (b)(8) of this section, the deposits and fees shall comply with those specified in the respective paragraphs.