

Circular 45

Copyright Registration for Motion Pictures Including Video Recordings

GENERAL INFORMATION

Statutory Definition

Motion pictures are audiovisual works consisting of a series of related images that, when shown in succession, impart an impression of motion, together with any accompanying sounds. They are typically embodied in film, videotape, or videodisk.

How Copyright Is Secured

Copyright in a motion picture is automatically secured when the work is created and “fixed” in a copy. The Copyright Office registers claims to copyright and issues certificates of registration but does not “grant” or “issue” copyrights.

Only the expression (camera work, dialogue, sounds, etc.) fixed in a motion picture is protectible under copyright. Copyright does not cover the idea or concept behind the work or any characters portrayed in the work.

Works that do not constitute a fixation of a motion picture include:

- a live telecast that is not fixed in a copy
- a screenplay or treatment of a future motion picture

Publication

Publication of a motion picture takes place when one or more copies are distributed to the public by sale, rental, lease or lending, or when **an offering** is made to distribute copies to a group of persons (wholesalers, retailers, broadcasters, motion picture distributors, and the like) for purposes of further distribution or public performance. Offering to distribute a copy of a motion picture for exhibition during a film festival may be considered publication of that work.

For an offering to constitute publication, copies must be made and be ready for distribution. The **performance** itself of a motion picture (for example, showing it in a theater, on television, or in a school room) **does not** constitute publication.

Publication of a motion picture publishes all the components embodied in it including the music, the script, and the sounds. Thus, if a motion picture made from a screenplay is published, the screenplay is published to the extent it is contained in the published work.

COPYRIGHT NOTICE

Before March 1, 1989, the use of copyright notice was mandatory on all published works, and any work first published before that date should have carried a notice. For works first published on and after March 1, 1989, use of the copyright notice is optional. For more information about copyright notice, see Circular 3, “Copyright Notice.”

NOTE: The notice requirements for works first published before 1978 are governed by the previous copyright law. See page 6 for such works. The status of certain foreign works was affected by amendments to the Copyright Act pursuant to enactment of the Uruguay Round Agreements Act (URAA). See page 5 for more information.

COPYRIGHT REGISTRATION

Advantages of Registration

Registration in the Copyright Office establishes a public record of the copyright claim. Before an infringement suit may be filed in court, registration is necessary for works of U.S. origin and for foreign works not originating in a Berne Union Country. Timely registration may also provide a broader range of remedies in an infringement suit. See Circular 1, “Copyright Basics,” for more information on the benefits of registration.

How to Apply for Registration

To register either a published or unpublished motion picture, send the following to the Copyright Office:

1. **A signed application** on Form PA;
2. **One complete copy** of the motion picture being registered (see page 5 for specific requirements);
3. **A separate written description** of the contents of the motion picture; and
4. **A nonrefundable filing fee** of \$30* for each application in the form of a draft (that is, a check, money order, or bank draft) payable to: **Register of Copyrights**. Do not send cash.

* **NOTE: Copyright Office fees are subject to change. For current fees, please check the Copyright Office website at www.copyright.gov, write the Copyright Office, or call (202) 707-3000.**

Drafts must be redeemable without service or exchange fee through a U.S. institution, must be payable in U.S. dollars, and must be imprinted with American Banking Association routing numbers.

If a check received in payment of the filing fee is returned to the Copyright Office as uncollectible, the Copyright Office will cancel the registration and will notify the remitter.

The fee for processing an original, supplementary, or renewal claim is nonrefundable, whether or not copyright registration is ultimately made.

The Copyright Office cannot assume any responsibility for the loss of currency sent in payment of copyright fees.

Send the application, deposit and fee **in the same package** to:

Library of Congress
 Copyright Office
 Register of Copyrights
 101 Independence Avenue, S.E.
 Washington, D.C. 20559-6000

If it is impossible or highly impractical to send the deposit (for example, a 35mm film) in the same package with the other registration material, include a letter with each set of materials indicating that the missing element(s) are being sent under separate cover.

Completing Form PA

NOTE: These points do not cover all the required information on the application. Be sure to refer to the instructions on the Form PA before completing the application.

Space 1:

Nature of This Work: "Motion picture" is generally the appropriate term. If the motion picture is a part of a larger work and you are claiming in the entire work, you should indicate that in this space.

Space 2:

Name of Author, "Work Made for Hire," and "Nature of Authorship": Ordinarily, a number of individuals contribute authorship to a motion picture, including the writer, director, producer, camera operator, editor, and others. These individuals are not always considered the "authors," however, because a motion picture is frequently a "work made for hire." In the case of a work made for hire, the **employer** — not the individuals who actually created the work—is considered the author for copyright purposes.

Under the copyright law, a "work made for hire" is defined as "a work prepared by an employee within the scope of his or her employment; or...a work specially ordered or commissioned for use...as a part of a motion picture or other audio-visual work...if the parties expressly agree in a written instrument signed by them that the work shall be considered a

work made for hire." (See Circular 9, "Works Made for Hire Under the 1976 Copyright Act," for more information.)

Before completing space 2, you should determine whether part or all of the motion picture was made for hire.

1. If the entire work was made for hire, name the employer as author and answer "Yes" to the work-made-for-hire question. Under "Nature of Authorship," state "entire motion picture."

2

NOTE
Under the law the author of a work made for hire is generally the employer not the employee (see instructions). For any part of this work that was made for hire check Yes in the space provided give the employer (or other person for whom the work was prepared) as Author of that part and leave the space for dates of birth and death blank

NAME OF AUTHOR ▼	
a Acme Productions, Inc.	
Was this contribution to the work a "work made for hire"?	AUTHOR'S NAME Name of Country
<input checked="" type="checkbox"/> Yes	OR { Citizen of Domiciled in
<input type="checkbox"/> No	
NATURE OF AUTHORSHIP Briefly describe nature of work	
Entire motion picture	

2. If no part of the work was made for hire, name the individuals who made the motion picture as the authors and answer "No" to the work-made-for-hire question. Under "Nature of Authorship," briefly describe what each person did, for example, "director," "producer," "writer," etc.

2

NOTE
Under the law the author of a work made for hire is generally the employer not the employee (see instructions). For any part of this work that was made for hire check Yes in the space provided give the employer (or other person for whom the work was prepared) as Author of that part and leave the space for dates of birth and death blank

NAME OF AUTHOR ▼	
a Mary Smith	
Was this contribution to the work a "work made for hire"?	AUTHOR'S NAME Name of Country
<input type="checkbox"/> Yes	OR { Citizen of ▶ Domiciled in ▶
<input checked="" type="checkbox"/> No	
NATURE OF AUTHORSHIP Briefly describe nature of work	
Script	
NAME OF AUTHOR ▼	
b John Jones	
Was this contribution to the work a "work made for hire"?	AUTHOR'S NAME Name of Country
<input type="checkbox"/> Yes	OR { Citizen of ▶ Domiciled in ▶
<input checked="" type="checkbox"/> No	
NATURE OF AUTHORSHIP Briefly describe nature of work	
Director, Producer	
NAME OF AUTHOR ▼	
c William Johnson	
Was this contribution to the work a "work made for hire"?	AUTHOR'S NAME Name of Country
<input type="checkbox"/> Yes	OR { Citizen of ▶ Domiciled in ▶
<input checked="" type="checkbox"/> No	
NATURE OF AUTHORSHIP Briefly describe nature of work	
Camera work	

3. If part of the work was made for hire and part was not, complete each section of space 2 accordingly. You may need to give the same name twice in separate sections of space 2, with the work-made-for-hire question answered "Yes" in one part and "No" in the other.

2

NOTE
Under the law the author of a work made for hire is generally the employer not the employee (see instructions). For any part of this work that was made for hire check "Yes" in the space provided give the employer (or other person for

NAME OF AUTHOR ▼	
a Mary Smith	
Was this contribution to the work a "work made for hire"?	AUTHOR'S NAT Name of Country,
<input type="checkbox"/> Yes	OR { Citizen of Domiciled in
<input checked="" type="checkbox"/> No	
NATURE OF AUTHORSHIP Briefly describe nature of work	
Script	
NAME OF AUTHOR ▼	
b Mary Smith	
Was this contribution to the work a "work made for hire"?	AUTHOR'S NAT Name of country,
<input checked="" type="checkbox"/> Yes	OR { Citizen of Domicile
<input type="checkbox"/> No	
NATURE OF AUTHORSHIP Briefly describe nature of work	
All other cinematographic material	

Space 3:

Year in Which Creation of This Work Was Completed:

Give the year in which the motion picture as a whole was completed. If the motion picture is a new version, give the year of completion of the version being registered.

Date and Nation of First Publication: If the work is published, give a complete date (month, day, year) and nation of first publication. If the work is not published at the time the application is submitted, leave the publication lines blank.

Space 4:

Copyright Claimant(s): For copyright purposes, a claimant must be either an author or a person or organization that has legally acquired the copyright originally owned by the author(s).

Transfer: If any claimant is not an author, give a statement describing how the claimant acquired the copyright. Copyright must be transferred by means of a written agreement or by operation of law. Therefore, "by written agreement" is generally an acceptable statement.

Space 5:

Previous Registration: If the motion picture contains a substantial amount of previously registered material, answer "Yes" to the first question and also check the box that shows the reason for this registration. You should include the registration number and year of the previously registered material in the spaces provided. If no part of the work was previously registered, answer "No" to the first question and leave the rest of the space blank.

Space 6:

Derivative Work or Compilation: Complete this space **only** if the work contains a substantial amount of previously registered, previously published, or public domain material. If it does, complete **both** parts of space 6, describing both the preexisting material and the added material. The following are examples of acceptable statements in space 6:

1. Feature film based on a screenplay that was registered separately:

DERIVATIVE WORK OR COMPILATION Complete both space 6a & 6b	
a. Preexisting Material Identify any preexisting work or works that this work	
previously registered screenplay	
b. Material Added to This Work Give a brief, general statement of the material added to the preexisting material	
Motion picture dramatization	

2. New version of a training video that was registered previously:

DERIVATIVE WORK OR COMPILATION Complete both space 6a & 6b	
a. Preexisting Material Identify any preexisting work or works that this work	
previously registered video production	
b. Material Added to This Work Give a brief, general statement of the material added to the preexisting material	
revisions and some new cinematographic material	

3. Television documentary:

DERIVATIVE WORK OR COMPILATION Complete both space 6a & 6b	
a. Preexisting Material Identify any preexisting work or works that this work	
some previously published footage and photographs	
b. Material Added to This Work Give a brief, general statement of the material added to the preexisting material	
editing, narration, and some new footage	

Space 8:

Certification: Check the box showing under what authority you are filing the application. Provide an **original signature** and a **current date** certifying that the facts as stated on the application are correct.

NOTE: If this work is published, the certification date must be on or after the publication date given in space 3.

DEPOSIT REQUIREMENTS FOR REGISTRATION

In addition to the application and fee, you must send a copy and a description of the work being registered. The nature of the copy and description may vary, depending upon the factors indicated below:

For All Published Motion Pictures:

1. **A separate description** of the nature and general content of the work, for example, a shooting script, a synopsis, or a pressbook; and
2. **One complete copy of the work.** A copy is complete if it is undamaged and free of splices and defects that would interfere with viewing the work.

For motion pictures first published in the U.S.:

One complete copy of the best edition. Where two or more editions are published in the United States, the best edition is the one preferred by the Library of Congress. Currently, the Library accepts in descending order of preference:

- A. Film
 1. Preprint material with special arrangement
 2. 35mm positive prints
 3. 16mm positive prints
- B. Videotape formats
 1. 1-inch open reel tape
 2. Betacam SP
 3. D-2
 4. Betacam
 5. Videodisk
 6. 3/4-inch cassette
 7. 1/2-inch VHS cassette

For motion pictures first published abroad:

One complete copy as first published or one copy of the best edition.

For Unpublished Motion Pictures

1. **a separate description** of the work and
2. **a copy of the work** containing all the visual and aural elements covered by the registration. An alternative de-

posit option is available for unpublished motion pictures. For information, contact the Motion Picture Team in the Copyright Office Examining Division at (202) 707-8182.

Requirements for Motion Pictures That Cannot Be Viewed by the Copyright Office Staff

The Examining Division does not have equipment to view motion pictures in certain formats, including 1-inch open reel videotapes, Betacam and Betacam SP videocassettes, D-2 and other digital videocassettes, and 8mm videocassettes. If you send one of these formats, please include the credits in the separate written description. If the work was first published before March 1, 1989, the Copyright Office must examine the work for the required copyright notice. In this case, please send the best edition copy and a copy that the Examining Division can view, for example, a 1/2-inch VHS videocassette.

NOTE: For the deposit requirement for works published before Jan. 1, 1978, see page 5.

EXCEPTIONS TO THE NORMAL DEPOSIT REQUIREMENT

Special Relief

Where it is unusually difficult or impossible to comply with the deposit requirement for a particular motion picture, you may submit a written request for special relief from the normal requirement. The request, addressed to the **Chief of the Examining Division**, must state why you cannot provide the required copy and describe the nature of the substitute copy being deposited. This letter should be included with the registration material.

The decision to grant or deny special relief is based on the acquisitions policies and archival considerations of the Library of Congress and the examining requirements of the Copyright Office.

Motion Picture Agreement

The Motion Picture Agreement establishes several alternative deposit procedures for published motion pictures. How well it serves a particular applicant depends on a number of factors, including the frequency of filing registrations. For detailed information, call the Motion Picture, Broadcasting, and Recorded Sound Division (MBRS) at (202) 707-5604, or write to:

Library of Congress
MBRS
Attn: Reference Assistant
101 Independence Avenue, S.E.
Washington, D.C. 20540-4805

MANDATORY DEPOSIT FOR WORKS PUBLISHED IN THE UNITED STATES

Requirement Under Mandatory Deposit

The owner of copyright or the owner of the exclusive right of publication of a motion picture published in the United States has a legal obligation to deposit in the Copyright Office within 3 months of publication in the United States one complete copy of the best edition and a description of the work. Failure to deposit this copy after the Copyright Office demands it can result in fines and other penalties.

Satisfying Mandatory Deposit Through Registration

Depositing the required copy with an application and fee for copyright registration simultaneously satisfies any mandatory deposit requirement for the motion picture. Satisfying the mandatory deposit requirement alone does not provide the benefits of copyright registration.

THE MOTION PICTURE COLLECTION AT THE LIBRARY OF CONGRESS

The Library of Congress is the nation's central collection of books, recordings, photographs, maps, audiovisual works, and other research materials. Many of the Library's acquisitions are obtained through copyright deposits. The material acquired by this means is critical to the Library's recognized success in maintaining superior and comprehensive collections.

Motion pictures form an essential part of the Library's holdings. As feature films, television programs, videos, and other audiovisual media become increasingly popular as a means of communication, education, and entertainment in our society, they also form a greater part of our historical record. The preservation facilities and bibliographic control provided by the Library ensure that many of these works will be available to future generations.

MOTION PICTURES FIRST PUBLISHED BEFORE 1978

The current copyright status of motion pictures first published before 1978 depends in part on the provisions of the 1909 Copyright Act. These provisions governed the past application of the notice requirement, the deposit requirement, and certain information in the registration record.

Copyright Notice

For a work first published before 1978, copyright was secured if all published copies bore a copyright notice in the proper form and position. The elements of the notice generally are 1) the symbol © (the letter C in a circle), the word "copyright," or the abbreviation "Copr."; 2) the year in which copyright was secured; and 3) the name of the owner of copyright at the time of publication. If published copies did not bear the required notice, copyright was lost and could not be restored.

The absence of a year date in the notice for motion pictures published before 1978 would not result in the loss of copyright. If a year date is included, however, it should be correct.

Under a 1994 amendment to the U.S. copyright law pursuant to enactment of the Uruguay Round Agreements Act (URAA), copyright in certain foreign works that had previously been in the public domain (including those that had entered the public domain because of publication without the required notice) was restored as of Jan. 1, 1996. Works whose copyright has been restored may be registered on Form GATT. See Circular 38b, "Highlights of Copyright Amendments Contained in the Uruguay Round Agreements Act," for more information.

Term of Copyright

Works first published with notice before 1978 had a 28-year initial term of copyright and a 67-year renewal term. Legislation enacted in 1992 made renewal of the second term automatic for works copyrighted between Jan. 1, 1964, and Dec. 31, 1977. However, there are benefits that derive from making a renewal registration during the 28th year of the original term. See Circular 15, "Renewal of Copyright," for more information.

Deposit Requirement

To register a claim in a motion picture first published before 1978, you should deposit **one copy of the work as first published**, that is, one of the first prints or tapes made from the master and distributed. If it is impossible to send such a copy, you may request special relief from the requirement (see the previous section on "**Special Relief**"). In this case, you should include with the substitute copy a letter confirming that the copy is identical to the copies as first published, **including the copyright notice**. In considering

a special relief request, the Copyright Office may require more information about the facts of first publication.

Registration Record

The application for a work first published before 1978 must name as claimant the person or organization that was the owner of copyright **at the time of first publication**. This name should agree with the name that appears in the copyright notice.

EFFECTIVE DATE OF REGISTRATION

A copyright registration is effective on the date the Copyright Office receives all the required elements in acceptable form, regardless of how long it then takes to process the application and mail the certificate of registration. The time the Copyright Office requires to process an application varies, depending on the amount of material the Office is receiving and the personnel available. Additionally, it may take several days for mailed material to reach the Copyright Office and for the certificate of registration to reach the recipient.

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

- a letter or telephone call from a Copyright Office staff member if further information is needed;
- a certificate of registration to indicate the work has been registered; or
- if registration cannot be made, a letter explaining why it has been refused.

If you want to know when the Copyright Office receives your material, send it by registered or certified mail and request a return receipt from the post office. Allow 4-6 weeks for the return of your receipt.

FOR MORE INFORMATION

To speak to an information specialist, call (202) 707-3000 (TTY: (202) 707-6737), Monday through Friday, 8:30 a.m. to 5:00 p.m., eastern time, except federal holidays. Recorded information is available 24 hours a day. Order forms and other publications from:

Library of Congress
Copyright Office
Publications Section, LM-455
101 Independence Avenue, S.E.
Washington, D.C. 20559-6000

or call the Forms and Publications Hotline 24 hours a day at (202) 707-9100. Most circulars (but not forms) are available via fax. Call (202) 707-2600 from a touchtone phone and follow the prompts. Access and download circulars, forms, and other information from the Copyright Office Website at www.loc.gov/copyright.