

Circular 65

Copyright Registration for Automated Databases

DEFINITION

An automated database is a body of facts, data, or other information assembled into an organized format suitable for use in a computer and comprising one or more files.

The copyright law does not specifically enumerate databases as copyrightable subject matter, but the legislative history indicates that Congress considered computer databases and compilations of data as “literary works” subject to copyright protection. Databases may be considered copyrightable as a form of compilation, which is defined in the law 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.”

EXTENT OF COPYRIGHT PROTECTION

Copyright protection extends to the compilation of facts if the compilation represents original authorship. In some instances some or all the contents of a database, new or revised, may also be copyrightable, as in the case of a full-text bibliographic database.

Copyright protection is not available for:

- ideas, methods, systems, concepts, and layouts
- individual words and short phrases, individual unadorned facts, and
- the selection and ordering of data in a database where the collection and arrangement of the material is a mechanical task only and represents no original authorship; e.g., merely transferring data from hard copy to computer storage

COPYRIGHT REGISTRATION

Copyright registration is a legal formality intended to make a public record of the basic facts of a particular copyright. In general, registration is not a condition of copyright protection. However, the copyright law encourages registration by providing certain incentives to register. For more information see Circular 1, “Copyright Basics.”

WHAT CONSTITUTES PUBLICATION OF A DATABASE?

The copyright law defines publication as “the distribution of copies or phonorecords of a work to the public by sale or

other transfer of ownership, or by rental, lease, or lending. The offering to distribute copies or phonorecords to a group of persons for purposes of further distribution, public performance, or public display, constitutes publication.” It is unclear whether on-line availability with or without printers for the user constitutes publication of the work under the copyright law. The Copyright Office does not determine whether a particular database is published or not. Instead, that decision is made by the copyright owner.

REGISTRATION FOR AUTOMATED DATABASES

Using a single application, deposit, and filing fee, automated databases may be registered in either of two ways:

- (1) as a single basic registration covering the database as published on a given date or, if unpublished, as created on a given date; or
- (2) as a group registration for a database with its updates or revisions (or for only its updates/revisions) added over a period of time, whether or not they are published, but only if certain conditions are met. (See Section titled “Group Registration for Automated Database Updates/Revisions” on page 4.)

1. Single Basic Registration

For a **published** database, a single basic registration ordinarily is made for the initial database as first published on a given date. For infrequent updates that are all added to the database and published on a single date (e. g., quarterly updates published on 1 day), a single basic registration is appropriate.

For an **unpublished** database created over a period of **more** than 1 day and not yet containing any updates, a single basic registration is appropriate. Similarly, when a previously completed database is later revised or updated on a single date (e.g., quarterly updates all added on 1 day), a basic registration is appropriate.

2. Group Registration

A group registration must include updates or revisions, either alone or combined with the initial database.

For a **published** database, it is possible to make a group registration for only the updates/revisions published over a period of up to 3 months, regardless of whether a prior registration for the initial database was ever made. It is also possible for the first registration to be a group registration for the initial database as first published plus its updates/revisions, but only if all the material was published within the same 3-month period within the same calendar year.

An **unpublished** updated database may be registered under the group registration provisions if its updates were created over a span of more than 1 day.

BASIC REGISTRATION (NONGROUP)

Scope of Claim

Registration for a **published** database extends only to the material first published as a unit, i.e., that which is published on the date given in the application as the “date of publication.” Registration for an **unpublished** database extends to the database as it exists at the time it is submitted for registration.

What to Send

- A completed Form TX
- A \$30* nonrefundable filing fee payable to the Register of Copyrights
- Appropriate deposit (see below)

Completing Form TX

Complete all applicable spaces on the form, and please note the following information when completing spaces 2, 3, and 6.

Basis of Claim

Where all of the material in a database has been previously published, previously registered, or is in the public domain, the claim must be limited to “compilation” assuming the requisites of original selection, coordination, or arrangement are present. Where all, or a substantial portion, of the material in the database represents copyrightable expression and it is being published or registered for the first time, the claim could also extend to “text,” “revised text,” “additional text,” or the like.

Space 2. In the “nature of authorship” space, identify the copyrightable authorship in the database for which registration is sought, for example “compilation” or “compilation and text.” (Do not include any reference to design, physical form, features, hardware, or other uncopyrightable elements.)

Space 3. The **date of creation** space must be completed. Indicate the year in which the author completed the particular version for which registration is now sought, even if other versions exist or if further changes or additions are planned. The **publication** space should be completed only if the database has been published.

Space 6. Complete this space if the database contains a substantial amount of previously published, previously registered, or public domain material. Leave space 6 blank if the material contained in the database is entirely new and has never before been registered or published.

EXAMPLES: For a database containing only previously published information, space 6 could be completed as follows:

Space 6a: “previously published material”

Space 6b: “compilation of database material”

For a database containing both previously published and new original textual material, space 6 could be completed as follows:

Space 6a: “previously published text”

Space 6b: “compilation of database material and some new text”

For a previously registered database that is revised or updated, space 6 could be completed as follows:

Space 6a: “previously registered database”

Space 6b: “revised compilation”

Or, if there is also copyrightable new or revised text, space 6b could read: “Revised compilation; some new text” (or “some revised text”).

Deposit Requirements—General

For databases fixed and/or published only in machine-readable copies (other than CD-ROM format), the deposit requirements are the same for published and unpublished databases except that if the database is published, the deposit should also include a representation of or the page containing the copyright notice, if any.

The deposit for published and unpublished databases should consist of one copy of identifying portions of the work reproduced in a form visually perceptible without the aid of a machine or device, either on paper or in microform.

For automated databases fixed or published in a CD-ROM format, the deposit must consist of one complete copy of the entire CD-ROM package, including a complete copy of any accompanying operating software and instructional manual, and a printed version of the work embodied in the CD-ROM if the work is fixed in print as well as a CD-ROM. See 37 CFR 202.20(c)(2)(xvii) or contact the Copyright Office at (202) 707-3000 for further information.

Specific Deposit Requirements

Single-file Database (data records pertaining to a single common subject matter):

- First and last 25 pages or, under a grant of special relief, first and last 25 data records. (See “Special Relief and Trade Secrets” below for procedure to use in requesting special relief.)

Multiple-file Database** (separate and distinct groups of data records):

- 50 data records from each file, or the entire file, whichever is less; or
- 50 pages or data records total under a grant of special relief. (See “Special Relief and Trade Secrets” below for procedure to use in requesting special relief.)

Revised Database** (single or multiple-file):

- 50 pages or records showing the revisions, or the entire revised portions if less than 50 pages.

****NOTE:** For multiple-file databases (new or revised), the deposit must also include a **descriptive statement** containing: title of the database; name and address of copyright claimant; name and content of each separate file within the database, including subject matter, origin of data, and number of separate records within each file. For published multiple-file databases, also include a description of the exact contents of any machine-readable copyright notice used in or with the database (plus manner and frequency of display); and sample of any visually perceptible copyright notice affixed to the copies or container.

Special Deposit for Encoded Databases

Database deposits should be humanly intelligible, preferably printouts written in a natural language. If the deposit is encoded, it should include a key or explanation of the code so that a copyright examiner can determine the presence of copyrightable material.

Special Relief and Trade Secrets

When an applicant is unable to deposit the appropriate material or when a database contains trade secrets that the applicant is unwilling to disclose through deposit for registration, the Copyright Office is willing to consider special relief requests, permitting the deposit of less than or other than the required deposit. Special relief requests are granted or denied by the Chief, Examining Division, upon receipt of the applicant's written request setting forth specific reasons why the request should be granted and indicating what deposit the applicant is able to make.

GROUP REGISTRATION FOR AUTOMATED DATABASE UPDATES/REVISIONS

Group registration is possible **only if ALL the following conditions are met:**

1. All the updates or revisions must be fixed (if unpublished) or published **only** in machine-readable copy(ies).
2. All the updates or revisions were created (if unpublished) or were first published within a 3-month period, all within the same calendar year.
3. All the updates or revisions are owned by the same copyright claimant.
4. All the updates or revisions have the same general title.
5. All the updates or revisions are similar in their general content, including their subject.
6. All the updates or revisions are similar in their organization.
7. The updates or revisions, if published before March 1, 1989, bear a copyright notice naming the owner of the copyright, and that name is the same in each notice.

Scope of Claim

Group registration for database updates/revisions or for a database plus its updates/revisions extends to all the material that was created (if unpublished) or that was first published within the time period (up to 3 months) specified at space 1 of the application.

How to Register

To make a single group registration for an automated database and/or its copyrightable updates/revisions added during a given 3-month period, send the following three items together in the same envelope or package addressed to:

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

- a \$30* nonrefundable filing fee payable to Register of Copyrights
- a deposit representative of the updates/revisions being registered
- a Form TX completed according to the instructions below

DEPOSIT REQUIREMENTS FOR GROUP REGISTRATION

The deposit requirements, **whether single or multiple file**, consist of the following:

1. **Visually perceptible identifying material** comprised of:
 - 50 pages or records (whichever is less) marked to disclose copyrightable revisions/updates from one representative publication date (if published) or one representative creation date (if unpublished),*** *or*
 - 50 pages or records (whichever is less) comprised entirely of revisions/updates from one representative publication date (if published) or one representative creation date (if unpublished); please confirm in a cover letter that the entire unmarked deposit represents revisions/updates added to the database on the representative date; *and*
2. **Descriptive Statement:** a brief, typed or printed statement giving the following information:
 - **title** of the database
 - name and address of the copyright **claimant**
 - for **each separate file in a multiple-file database**, its **name** and **content**, including **its subject, origin(s) of the data**, and **approximate number of data records** it contains
 - information about the **nature, location, and frequency** of the changes within the database or (for multiple-file databases) within the separate data files, *and*

*****NOTE:** It is not necessary to identify ALL revisions/updates. The requirement is to identify sufficient revisions/updates to establish that the work submitted for registration is an original work of authorship.

- information about the **copyright notice**, if one is used, as follows:
 - For a **machine-readable notice**, transcribe the contents of the notice and indicate the manner and frequency with which it is displayed (e.g., at user's terminal only at sign on, or continuously on terminal display, or on printouts, etc.).
 - For a **visually perceptible notice** on any copies of the work (or on tape reels or containers for same), include a photocopy or other sample of the notice.

How to Complete Form TX for Group Registration of Database Updates

(Supersedes existing instructions for Spaces 1, 3, and 6 of Form TX; complete all other applicable spaces on Form TX according to the instructions on the form.)

Space 1: Title

At the “**Title of This Work**” line, use the following statement: **Group registration for automated database titled _____; published/unpublished (choose one) updates from _____ to _____.**

- Indicate published or unpublished. All the updates or revisions being registered as a group must be either published or unpublished.
- Give the earliest and latest dates for updates included in this group registration. This time period must be 3 months or less, all within the same calendar year.

Use the “**Publication as a Contribution**” line of space 1 to give the following information: The **date** (month, day, year) that is **represented by the marked** portions of **identifying material deposited**. Indicate the **frequency with which revisions** are made: e.g., daily, weekly, monthly, or other (specify).

Space 3: Creation and Publication

Date of Creation: Give the year in which the author completed this group of updates or revisions.

Creation: Under the statute, a work is “created” when it is fixed in a copy or phonorecord for the first time. Where a work has been prepared over a period of time, the part of the work existing in fixed form on a particular date constitutes the created work on that date. The date given here should be the year in which the author completed the particular version for which registration is now being sought, even if other versions exist or if further changes or additions are planned.

Date of Publication: Give the date (month, day, year) and nation of publication only if the updates or revisions have been published. The date given should be the last date on which you published updates or revisions during the time period specified at space 1.

Space 6: Derivative Work or Compilation

Leave space 6 blank if the material contained in the version of the database or its updates now being registered is entirely new and never before registered or published.

Complete this space if the updates or the database and its updates that are now being registered contain a substantial amount of previously published, previously registered, or public domain material.

Preexisting Material (space 6a): For a new database that has not been previously registered or previously published but that contains an appreciable amount of previously published, previously registered, or public domain material, space 6a should describe such material as “previously published material,” “public domain data,” or the like.

For a previously published or previously registered database that has been revised or periodically updated, space 6a should describe the preexisting material as “previously published database” or “previously registered database” or “database prior to (earliest date represented in the present group of updates)”.

Material Added to This Work (space 6b): This space should describe the updates or revisions or new compilation being registered for the first time **and** should specify the frequency of these updates or revisions, e.g., “weekly updates,” or “daily revisions,” or “revised compilation updated monthly.” Where all or a portion of the text represents new copyrightable expression, and it is being published or registered for the first time, the statement should also include “new text,” “updated and revised text,” or the like. Space 2 should name the author(s) of the material listed at space 6b and should describe the nature of authorship to agree with space 6b.

NOTICE OF COPYRIGHT

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.”

POINTS TO REMEMBER

A copyright registration is effective on the date the Copyright Office receives all the required elements in acceptable form, regardless of the length of time it takes to process the appli-

cation and mail the certificate of registration. The length of time required by the Copyright Office to process an application varies, depending on the amount of material received and the personnel available to handle it. It must also be kept in mind that it may take a number of days for mailed material to reach the Copyright Office and for the certificate of registration to reach the recipient.

You will not receive an acknowledgment that your application for copyright registration has been received (the Office receives more than 600,000 applications annually), but you may expect:

- a letter or telephone call from a copyright examiner if further information is needed;
- a certificate of registration to indicate the work has been registered, or if the application cannot be accepted, a letter explaining why it has been rejected.

If you want to know when the Copyright Office receives your material, send it by registered or certified mail and request a return receipt.

FOR FURTHER INFORMATION

Information via the Internet: Circulars, announcements, regulations, other related materials, and all copyright application forms are available from the Copyright Office website at www.copyright.gov.

Information by Fax: Circulars and other information (but not application forms) are available by using a touchtone phone to access Fax-on-Demand at (202) 707-2600.

Information by telephone: If you have specific questions about registering a work transmitted online and want to speak with a copyright examiner, please call the Literary Section of the Examining Division at (202) 707-8250. For general information about copyright, call the Public Information Office at (202) 707-3000. The TTY number is (202) 707-6737. Information specialists are on duty in the Public Information Office from 8:30 a.m. to 5:00 p.m., eastern time, Monday through Friday, except federal holidays. Recorded information is available 24 hours a day. Or, if you know which application forms and circulars you want, request them from the Forms and Publications Hotline at (202) 707-9100 24 hours a day. Leave a recorded message.

Information by regular mail:

Library of Congress
Copyright Office
Public Information Office, LM-401
101 Independence Avenue, S.E.
Washington, D.C. 20559-6000