

Circular 61

Copyright Registration for Computer Programs

DEFINITION

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.

EXTENT OF COPYRIGHT PROTECTION

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

WHAT TO SEND

- A completed application form (typically Form TX)
- A \$30* nonrefundable filing fee payable to the *Register of Copyrights*
- One copy of identifying material (see “Deposit Requirements” below)

Mail all of the above material in the same envelope or package addressed to:

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

*** 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.**

COMPLETING FORM TX

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

Space 2. Nature of Authorship. In the “Nature of Authorship” space describe the copyrightable authorship in the computer program for which registration is sought. Acceptable statements include “computer program,” “entire text of computer program,” “entire program code,” “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.

Space 3. Year of Creation. Give the year of creation and the exact date of first publication, if any, for the particular version of the computer program for which registration is sought.

Space 6. Derivative Work or Compilation. Complete this space if the computer program contains a substantial amount of previously published, registered, or public domain material such as subroutines, modules, textual images, or if the work was developed using an underlying computer program or authoring tool. Space 6a may state “previous version.” Typical examples of descriptions of new material for space 6b include “revised computer program,” “editorial revisions,” “revisions and additional text of computer program,” “new programming text,” etc. Do not refer to debugging, error corrections, new functions of the revised program, or other unregistrable elements.

DEPOSIT REQUIREMENTS

I. 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.

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.

Where an applicant is unable or unwilling to deposit source code, he/she must state in writing that the work as deposited in object code contains copyrightable authorship. The Office will send a letter stating that registration has been made under its rule of doubt and warning that 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.

For programs written in HyperCard® 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 program contains trade secrets, the deposit of script pages must meet the requirements of part II below.

NOTE: When a computer program is embodied in a CD-ROM, ordinarily the entire CD-ROM package must be deposited, 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.

II. 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, plus one of the following:

A. 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.

B. Revised computer programs

- If the revisions are present in the first 25 and last 25 pages, any one of the 4 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

- To obtain the full benefits of registration, each separately published version of a given computer program must be separately registered, provided each contains a sufficient amount of new or revised authorship to sustain a claim to copyright.
- 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 space 6 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 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.

SCREEN DISPLAYS

Copyright protection for computer screen displays, including videogames, 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 videogames, 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 "nature of authorship" space, such as "entire work" or "computer program." This description will cover any copyrightable authorship contained in the computer program and screen displays, regardless of whether identifying material for the screen 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.

HOW TO REGISTER COMPUTER PROGRAMS CONTAINING COPYRIGHTABLE SCREEN DISPLAYS

A single registration should be made in the class appropriate to the predominant authorship. Because the computer program is a literary work, literary authorship will predominate in most works, including many in which there are screen graphics. Therefore, registration will usually be appropriate on Form TX. If pictorial or graphic authorship predominates, registration may be made on Form PA as an audiovisual work.

The registration will extend to any related copyrightable screens, regardless of whether identifying material for the screens is deposited. If identifying material for screen displays is deposited and if there is a specific claim in screens, the identifying material will be examined for copyrightability. Where the application refers specifically to screen displays, identifying material for the screens must be deposited. Where the screens are essentially not copyrightable (e.g., *de minimis* menu screens, blank forms, or the like), the application should not refer to screens.

If screen display authorship has already been registered without a claim in the computer program, a separate registration may be made for the program. In such a case, the normal requirements for registration of a computer program apply.

If a computer program has already been registered without a specific claim asserted in the related screen displays, a separate registration for the screens is not required, but will be permitted. In such a case, the application should describe the nature of authorship appropriately, for example, "text of screen displays" or "audiovisual material." Identifying material for the screens containing copyrightable authorship must be deposited.

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."

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. It may take several days for mailed material to reach the Copyright Office and for the certificate of registration to reach the recipient.

<p>To register a computer program and its related screen displays:</p> <ul style="list-style-type: none"> • Select the application form appropriate for the predominant authorship; • Refer to the chart below to complete space 2 of the application and to determine whether to file identifying material for the screen displays. 	
HOW TO COMPLETE APPLICATION	WHAT TO DEPOSIT
Space 2 Nature of Authorship	ID Material for Screens (In addition to Required Source Code)
Option 1 "Entire work" OR "Entire computer program"	Optional
Option 2 "Entire computer program, including text of screen displays" OR "Entire computer program, including audiovisual material" OR "Entire computer program, including artwork on screen displays"	Required
NOTE: 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: Identifying material for screen displays should consist of printouts, photographs, or drawings clearly revealing the screens. For works that are predominantly audiovisual, such as videogames, 1/2 inch VHS videotape is acceptable. All screen identifying material will be examined for copyrightability. If screens are reproduced in a manual, the manual will suffice as identifying material.

If you apply for copyright registration, 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.

If you want to know the date that 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 via the Internet. You may access these 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 computer program or you need 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