To Register or Not to Register ... Is That the Question? September 2003, Volume 1, Issue 4. ISSN 1545-777X by Fritz Dolak, D.A. Copyright and Intellectual Property Office

Copyright registration can be confusing. To be sure, many questions arise from inadequate information about copyright registration that can lead to that confusion. Some of the answers to these questions are online and include:

- What is copyrightable?
- How long does copyright last?

Other questions may arise out of protecting your original work. That's where registering a copyright might very well play a part in your decision to register or not to register. This article will help to determine your need and help answer such questions as:

- Do I really need to register?
- What does it cost and what do I need to do?

These questions and more will be explored in this issue of the ©opyright Forum.

## **Obtaining Copyright**

Copyright protection exists, in its most simplistic form, the moment a work is created. Ever since the United States became a signatory to the 1989 Berne Convention, all one has to do to have simple copyright protection is to satisfy two, basic conditions:

- 1. The work must be an original work; and,
- 2. The work must be fixed in a tangible form.

The copyright in the original, fixed work immediately becomes the property of the creator. At that time, The United States Copyright Law, Title 17 of the U.S. Code, §106, provides exclusive rights which can be reviewed from the Related Links.

#### Registering: Nothing But Advantages

Registration is not a requirement for protection. But it should be noted that there are definite advantages to getting an original work registered by the United States Copyright Office. Simply put, copyright registration is a legal formality that makes a public record of a given copyrighted work. In order to persuade everyone to obtain copyright registration, the Copyright Law provides a number of inducements to encourage registration. These are:

- Registration provides prima facie evidence in court of the validity of the copyright
- Registration provides prima facie evidence in court of the facts stated in the certificate
- Registration provides for statutory damages if the work has been infringed

And since copyright attorney fees are exorbitantly high, the most important inducement of all is that:

 Registration provides for the reimbursement of attorney's fees by the infringer if the work has been found to be infringed and an ensuing lawsuit is won in Federal Court All four of these factors are powerful legal and monetary benefits for registering.

# **Registration Procedures**

The U. S. Copyright Office has a website that is thorough and helpful in assisting the copyright registration process. Three items are required in order to register a copyright:

- An application form that is properly completed. Please note that if application forms
  are printed off of the U. S. Copyright Office's website [the last URL listed below], you
  must have the forms printed back-to-back and head-to-head. Failure to do so will
  result in your application being returned and postponing your application process by
  many weeks.
- 2. A nonrefundable \$30.00 filing fee for each application.
- 3. A nonreturnable deposit copy of the work being registered. Usually two complete copies or phonorecords of the published work or two copies of the best edition are required for deposit. Depending upon the type of work being registered, deposit requirements do vary. Further deposit requirement information on portions of computer software deposits, digital media deposits, visual arts, etc., are provided at:

http://www.copyright.gov/circs/circ1.html#sdr

When all three items are ready to mail, send them to:

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

Please note that if you are registering multiple works, all applications, deposits and fees should be send in the same package with each application being attached to the appropriate deposit.

#### The Effective Date of Registration

A copyright registration is effective on the date the U. S. Copyright Office receives all three of the requirements in acceptable form. The Copyright Office receives, on average, about 30,000 applications per day. Consequently, the time to process an application and receive a certificate of registration can take up to 3 months. Regardless of how long the application takes to be registered, the copyright registration is effective the day the U.S. Copyright Office receives all three of the acceptable requirements. It is imperative to make sure the application complies with the U. S. Copyright Office's requirements.

# **Registration Application Forms**

The type of original work of authorship will determine what type of application form will be used to register the copyright. Semiconductor chips, literary works, musical works, sound recordings, non dramatic works, visual art works, software, just to name a few, have their own registration application form. These various forms and directions on how to apply can be found, downloaded [as an Adobe .pdf file] and then printed out by going to:

http://www.copyright.gov/register/index.html

Fill-in online, printable application forms are also available at:

## http://www.copyright.gov/forms

## Registration Application Fee: \$30.00

Do not send cash, International Money Orders or Postal Money Orders. Only checks, money orders, and bank drafts imprinted with American Banking Association routing numbers and in U. S. currency are acceptable.

### To Register or Not to Register ... There Is No Question!

It is definitely advisable and to your benefit to do the U.S. Copyright Office 3-step registration process: properly fill out the registration forms, make your deposit and pay your registration fee, and send it all off to the U.S. Copyright Office in order to protect your work.

The Copyright Law wants you to register, and it provides encouragement, legal remedies and monetary gain if your work is infringed. Registration is for your own protection. Get Real - Get Registered!

For additional information on copyright registration, please visit the U. S. Copyright Office's website at:

## http://www.copyright.gov

If you are unsure or have questions about registering or have questions on other issues such as file sharing, fair use, the Copyright Law or infringement, be advised that there is help available. Assistance about these concerns and all other copyright matters is available from The University Libraries.