

## PREREGISTRATION

### **What is preregistration? What works can be preregistered?**

Preregistration is a new procedure in the Copyright Office for certain classes of works that the Register of Copyrights has determined have a history of pre-release infringement. Preregistration serves as a place-holder for limited purposes, mainly where a copyright owner needs to sue for infringement while a work is still being prepared for commercial release. Preregistration is not a substitute for registration, and its use is only appropriate in certain circumstances.

A work submitted for preregistration must meet three conditions:

1. the work must be **unpublished**;
2. the work must be in the process of **being prepared for commercial distribution** in either physical or digital format, e.g., film copies, CDs, computer programs to be sold online, and the applicant must have a reasonable expectation of this commercial distribution
3. the work must **fall within the following classes of works** determined by the Register of Copyrights to have had a history of infringement prior to authorized commercial distribution. The works determined to be eligible under this requirement are:
  - motion pictures
  - sound recordings
  - musical compositions
  - literary works being prepared for publication in book form
  - computer programs (which may include videogames)
  - advertising or marketing photographs

### **What classes of works are eligible for preregistration?**

- Motion pictures
- Sound recordings
- Musical compositions
- Literary works being prepared for publication in book form
- Computer programs (which may include videogames)
- Advertising or marketing photographs

### **Is preregistration a substitute for registration?**

No. Preregistration is not a form of registration but is simply an indication of an intent to register a work once the work has been completed and/or published. When the work has been completed, it may be registered as an unpublished work, and when it has been published, it may be registered as a published work.

Preregistration of a work offers certain advantages to a copyright owner pursuant to 17 U.S.C. 408(f), 411 and 412. However, preregistration of a work does not constitute prima facie evidence of the validity of the copyright or of the facts stated in the application for preregistration or in the preregistration record. The fact that a work has been preregistered does not create any presumption that the Copyright Office will register the work upon submission of an application for registration.

A person who has preregistered a work must register the work within one month after the copyright owner becomes aware of infringement and no later than three months after first publication. If full registration is not made within the prescribed time period, a court must dismiss an action for copyright infringement that occurred before or within the first two months after first publication.

### **Will I need to make a regular registration after my work is completed?**

Preregistration is not a form of registration but is simply an indication of an intent to register a work once the work has been completed and/or published. The law requires that if you have preregistered a work, you are required to register the work within one month after the copyright owner becomes aware of infringement and no later than three months after first publication.

If full registration is not made within the prescribed time period, a court must dismiss an action for copyright infringement that occurred before or within the first two months after first publication.

### **When should I register my work if I have already preregistered it?**

A person who has preregistered a work is required, in order to preserve the legal benefits of preregistration, to register the work within one month after the copyright owner becomes aware of infringement and no later than three months after first publication. If full registration is not made within the prescribed time period, a court must dismiss an action for copyright infringement that occurred before or within the first two months after first publication.