

IP Alert: U.S. Copyright Office Creates New Group Registration Process for Short Online Works

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On June 22, 2020, the United States Copyright Office amended its regulations to establish a new option for registration of short, online literary works that will go into effect later this summer. (See Federal Register Vol. 85, No. 120.) The Copyright Office has been considering this new rule since December 2018, following a joint petition from several prominent organizations representing writers. The rule addresses the surge in production of shorter, online works such as blog posts, social media posts, articles, poems, and flash fiction. While an author such as a blogger may create multiple unique, protectable posts each week or month, under the previous Copyright Office rules, registration of such posts required separate applications for each post with a separate filing fee. In establishing this new procedure for group registration, the Copyright Office significantly reduces both the financial and time cost for authors of short online works: up to 50 such works can now be filed in one application for a single filing fee. This new rule will make copyright registration, and the significant benefits of such registration, accessible to many more online authors.

Under U.S. law, copyright protects original, creative works of authorship that are fixed in a tangible medium of expression from the moment of fixation. Registration with the Copyright Office is not necessary to receive the exclusive rights associated with copyright — including the rights to reproduce, prepare derivative works of, distribute copies of, perform, and display the protected work — but registration confers significant benefits on copyright owners. Notably, a copyright registration is necessary to file a suit for infringement in federal court; registration constitutes prima facie evidence of the validity of the copyright; and registration can make the owner eligible for statutory damages, attorneys' fees, and costs in an infringement suit.

Authors of online works are particularly vulnerable to infringement of their works, as these works can be copied and distributed to wide audiences without authorization with only a few clicks of the mouse. By establishing a straightforward means for online authors to protect a large number of works at once, the Copyright Office opens the door for content creators to receive the benefits of registration and effectively enforce their rights against infringers.

An application for group registration under the new rule must fulfill several requirements:

1. The group can consist of up to 50 literary works.



2. Each individual work must be between 50 and 17,500 words. (The Copyright Office noted that this lower limit does not establish a word-count-based threshold for copyrightability and that this determination is still made on a case by case basis for literary works in general.)
3. The works must have all been published online within a three-month period, and cannot have been published in print before having been published online.
4. The works must have been all created by the same individual author, or have been all created jointly by the same individuals.
5. Each author must be named as the copyright claimant or claimants. The work cannot be a work made for hire.
6. The application must be submitted through a new online application for "Short Online Literary Works," form GRTX, rather than the Standard Application for literary works.
7. The applicant must upload a .ZIP file with a separate digital file for each work as a deposit.
8. As is the case with any application for copyright registration, each of the works must contain a sufficient amount of creative authorship to permit protection under U.S. law.

The new rule goes into effect on August 17, 2020 and constitutes a significant addition to the Copyright Office's policies regarding group registrations. The Copyright Office already allowed group registrations for works such as contributions to periodicals, photographs, newspapers, serials, database updates, and certain unpublished works, but such options were not necessarily appropriate for authors of short online works, many of whom may be self-publishing via social media or blogging platforms.

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