

Interim Guidance: Procedures and Fees for Reconsideration of a Refusal to Register a Copyright, Mask Work, or Vessel Hull Claim

Copyright

As required by copyright law, the Copyright Office will notify you in writing if your copyright claim cannot be registered and will tell you the reasons for that decision. (17 U.S.C. §410(b)).

Applicants have the option of asking the Office to reconsider the decision to refuse registration. An applicant who has sought registration of a copyright may bring an infringement action under 17 U.S.C. §411(a) even if that applicant is refused registration.

An applicant who requests reconsideration must follow the Copyright Office's administrative procedures. (69 FR 77636–77637, December 28, 2004) Some of the major requirements are listed below. Greater detail about the procedures is provided in 37 CFR §202.5.

Mask Works and Vessel Hull Designs

The Copyright Office is also responsible for registering claims in mask works and vessel hull designs. (17 U.S.C. chapters 9 and 13) The administrative proceedings for requests for reconsideration discussed above apply to refusals to register claims in those works as well. (37 CFR §211.7 and §212.7)

All Requests for Reconsideration

Both first and second requests for reconsideration must:

- 1 Be in *writing*
- 2 Set forth *reasons why the claim should be registered*, including any arguments that the registration was improperly refused
- 3 Be received in the Copyright Office not later than *three months* after the date that appears on the Office's written refusal to register a claim
- 4 Be addressed to:
Copyright R&P Division,
P.O. Box 71380
Washington, DC 20024-1380.
To expedite delivery, write "reconsideration" on the outside of the envelope or package so it is clearly visible to mail routers, and
- 5 Include the Copyright Office control number on the first page and clearly indicate either "first reconsideration" or "second reconsideration" as appropriate on the subject line

The Copyright Office will send applicants written notification of its decisions in response to both first and second requests for reconsideration including an explanation of its reasoning.

First Request for Reconsideration: The Copyright Office Examining Division reviews the first request for reconsideration. If the Examining Division upholds the refusal to register the claim, an applicant may submit a second request for reconsideration.

NOTE: The fee for a first request for reconsideration is \$200 plus an additional fee of \$20 for each related claim after the first for a group of related works on which one appeal is filed.

Second Request for Reconsideration: The Copyright Office Board of Review considers the second request for reconsideration. The Board consists of the Register of Copyrights and the General Counsel or their respective designees and a third member appointed by the Register. The Board's decision constitutes final agency action.

NOTE: The fee for the second request for reconsideration is \$500 plus an additional fee of \$20 for each related claim after the first for a group of related works on which one appeal is filed.