

Renewal of Copyright

Important:

- Public Law 102-307, enacted on June 26, 1992, amended the copyright law to make renewal automatic and renewal registration optional for works originally copyrighted between January 1, 1964, and December 31, 1977.
- While this amendment to the current law makes renewal registration optional for works copyrighted between January 1, 1964, and December 31, 1977, there are a number of incentives that encourage the filing of a renewal application, especially during the 28th year of the copyright term.
- Public Law 105-298, enacted on October 27, 1998, amended the copyright law to add 20 years to the copyright term.

The Renewal System

Under the 1909 copyright law, works copyrighted in the United States before January 1, 1978, were subject to a renewal system in which the term of copyright was divided into two consecutive terms. Renewal registration, within strict time limits, was required as a condition of securing the second term and extending the copyright to its maximum length.

On January 1, 1978, the current copyright law (title 17 of the *United States Code*) came into effect in the United States. This law retained the renewal system for works that were copyrighted before 1978 and were still in their first terms on January 1, 1978. For these works the statute provides for a first term of copyright protection lasting for 28 years, with the possibility for a second term of 47 years. The 1992 amending legislation automatically secures this second term for works copyrighted between January 1, 1964, and December 31, 1977.

NOTE: If a copyright originally secured before January 1, 1964, was not renewed at the proper time, copyright protection expired at the end of the 28th calendar year of the copyright and could not be restored.

The Effect of the 1992 and the 1998 Amendments on Renewal of Copyright

Works copyrighted between January 1, 1964, and December 31, 1977, are affected by P.L. 102-307, which automatically secured the second term and made renewal registration optional, and by P.L. 105-298, which added an additional 20 years to the second term of copyright for these works. The term of copyright in works copyrighted between January 1, 1964, and December 31, 1977, is now 95 years. There is no requirement to register a renewal in order to

extend the original 28-year copyright term to the full term of 95 years. Although the renewal term is secured automatically, the Copyright Office does not issue a renewal certificate for these works unless a renewal application and fee are received and registered in the Copyright Office.

The benefits to making a renewal registration during the 28th year of the original term of copyright are:

- 1 The renewal copyright vested in the name of the renewal claimant on the effective date of the renewal registration.

For example, if a renewal registration was made in the 28th year and the renewal claimant died following the renewal registration but before the end of the year, the renewal copyright was secured on behalf of that renewal claimant.

NOTE: If the renewal registration was not made in the 28th year, the renewal copyright vested on the first day of the renewal term in the party entitled to claim renewal as of December 31 of the 28th year.

- 2 The Copyright Office issues a renewal certificate, which constitutes prima facie evidence as to the validity of the copyright during the renewed and extended term and of the facts stated in the certificate.
- 3 The right to use the derivative work in the extended term may be affected.

For example, if an author dies before the 28th year of the original term and a statutory renewal claimant registers a renewal within the 28th year, that claimant can terminate an assignment made by the deceased author authorizing the exploitation of a derivative work. If a renewal is not made during the 28th year, a derivative work created during the first term of copyright under a prior grant can continue to be used according to the terms of the grant. Thus, an author or other renewal claimant lost the right to object to the continued use of the derivative work during the second term by failing to make a timely renewal, but any terms in the prior grant concerning payment or use, e.g., a royalty, must continue to be honored. This exception does not apply to a new derivative work, which can only be prepared with the consent of the author or other renewal claimant.

A renewal registration made after the 28th year will not confer the benefits mentioned above but will confer other benefits denied to unregistered works. For example, renewal registration establishes a public record of copyright ownership in a work at the time that the renewal was registered. The courts have discretion to determine the evidentiary weight accorded a certificate of renewal registration when registration is made after the 28th year of the copyright term. Renewal registration is a prerequisite to statutory damages

and attorney's fees for published works not registered for the original term.

In cases where no original registration or renewal registration was made before the expiration of the 28th year, important benefits can still be secured by filing a renewal registration at any time during the renewal term. These benefits would include, for example, statutory damages and attorney's fees in any infringement suit for infringements occurring after the renewal registration is made. Also, it is a requirement to get into court in certain circumstances under section 411 (a), and it creates a public record both to defend against innocent infringers and to facilitate easier licensing of the work.

Renewal Filing Period

For works copyrighted between January 1, 1964, and December 31, 1977, an application for renewal of copyright can be made at any time during the renewed and extended term of 67 years.

Who May Claim Renewal

Renewal copyright may be claimed only by those persons specified in the law.

A. The following persons may claim renewal in all types of works except those enumerated in Paragraph B below:

- 1 The author, if living, may claim as *the author*.
- 2 If the author is dead, the widow or widower of the author, or the child or children of the author, or both, may claim as *the widow of the author* or *the widower of the author* and/or *the child of the deceased author* or *the children of the deceased author*.
- 3 If there is no surviving widow, widower, or child, and the author left a will, the author's executors may claim as *the executors of the author*.
- 4 If there is no surviving widow, widower, or child, and the author left no will or the will has been discharged, the next of kin may claim as *the next of kin of the deceased author, there being no will*.

B. Only in the case of the following four types of works may the copyright proprietor (owner) claim renewal:

- 1 Posthumous work (a work published after the author's death as to which no copyright assignment or other contract for exploitation has occurred during the deceased author's lifetime). Renewal may be claimed as *proprietor of copyright in a posthumous work*.

- 2 Periodical, cyclopedic, or other composite work. Renewal may be claimed as *proprietor of copyright in a composite work*.
- 3 Work copyrighted by a corporate body otherwise than as assignee or licensee of the individual author. Renewal may be claimed as *proprietor of copyright in a work copyrighted by a corporate body otherwise than as assignee or licensee of the individual author*. (This type of claim is considered appropriate in relatively few cases.)
- 4 Work copyrighted by an employer for whom such work was made for hire. Renewal may be claimed as *proprietor of copyright in a work made for hire*.

For registration in the 28th year of the original copyright term, the renewal claimant was the individual(s) or entity who is entitled to claim renewal copyright on the date the application is filed.

For registration after the 28th year of the original copyright term, the renewal claimant was the individual(s) or entity who was entitled to claim renewal copyright on December 31 of the 28th year.

How to Register a Renewal Claim

Application Form and Renewal Fee

Application for renewal registration must be filed on Form RE, which is supplied by the Copyright Office on request. It is also available from the Copyright Office website at www.copyright.gov.

Send Form RE and the correct filing fee* together in a single package. If several applications are submitted at the same time, a remittance for the total amount should accompany them.

All remittances should be in the form of drafts (that is, checks, money orders, or bank drafts) payable to *Register of Copyrights*. Do not send cash. The Copyright Office cannot assume any responsibility for the loss of currency sent in payment of copyright fees.

Drafts must be redeemable without service or exchange fee through a U.S. institution, must be payable in U.S. dollars, and must be imprinted with American Banking Association routing numbers.

If a check received in payment of the filing fee is returned to the Copyright Office as uncollectible, the Copyright Office will cancel the registration and will notify the applicant.

The fee for processing a renewal claim is nonrefundable, whether or not renewal registration is ultimately made.

***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.

Renewal Registration Without Original Registration

A renewal registration may be made even if there were no original registration made during the original 28-year term. (This applies only to works first published in 1964 and later.) A renewal application Form RE must be filed, accompanied by the Form RE Addendum, a copy of the work as first published or appropriate identifying material in accordance with the requirements of 37 CFR 202.20 and 202.21, and the filing fee. See CFR 202.17 (www.copyright.gov/title37/202/37cfr202-17.html) for further information.

The information in the Form RE Addendum is necessary to establish that copyright subsists in the original term which is capable of renewal. The deposit copy facilitates the examination of the claim to copyright which is submitted for renewal, and it is available for accession by the Library of Congress to its collections for the benefit of the nation.

A single fee* will be required for a renewal registration using Form RE and Form RE Addendum. Please contact the Copyright Office for more information at (202) 707-8180 or fax at (202) 707-3849 or write to the Copyright Office at:

Library of Congress
Copyright Office
101 Independence Avenue SE
Washington, DC 20559-6000

New Versions

Copyright in a new version of a previously copyrighted work (such as an arrangement, translation, dramatization, compilation, or work republished with new matter) covers only the additions, changes, or other new material appearing for the first time in that version. The copyright secured in a new version is independent of any copyright protection in material published or copyrighted earlier, and the only authors of a new version are those who contributed copyrightable matter to it. Thus, for renewal purposes, the person who wrote the original version upon which the new work is based cannot be regarded as an author of the new version, unless that person also contributed to the new matter.

Contributions to Periodicals or Other Composite Works

Separate Renewal for a Single Contribution

Separate renewal registration is possible for a work published as a contribution to a periodical, serial, or other composite work whether or not the contribution was copyrighted independently or as part of the larger work in which it appeared.

Notice of Renewal of Copyright

The Copyright Office is frequently asked whether the notice of copyright should be changed on copies of a work issued during the renewal term. The copyright law is silent on this point, and the continued use of the original form of notice may therefore be considered appropriate. However, a notice that also refers to the fact of renewal might be regarded as more informative and, hence, preferable; for example:

*Copyright 1975 Bobby Eroica Dupea
Copyright renewed 2002 by Rayette Depesto*

Effective Date of Registration

A renewal registration is effective on the date the Copyright Office receives all the required renewal 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. Please keep in mind that it may take a number of days for mailed material to reach the Copyright Office and for the certificate of registration to reach the recipient after being mailed by the Copyright Office.

If you file an application for renewal registration in the Copyright Office, you will not receive an acknowledgment that your application has been received, but you can expect:

- A letter or telephone call from a copyright examiner or other staff member if further information is needed;
- A certificate of registration to indicate the renewal has been registered;
- If renewal registration cannot be made, a letter explaining why it has been refused.

If you want to know when the Copyright Office receives your material, send it by registered or certified mail and request a return receipt from the U.S. Postal Service. Allow at least 4–6 weeks for the return of your receipt.

You may photocopy blank application forms; however, photocopied forms submitted to the Copyright Office must be clear and legible on a good grade of 8½ × 11" inch white paper suitable for automatic feeding through a photocopier. The forms should be printed, preferably in black ink, head-to-head (so that when you turn the sheet over, the top of page 2 is directly behind the top of page 1). *Forms not meeting these requirements will be returned to the originator.*

If, after reading this circular, you have additional questions about renewal of copyright, you may call the Copyright Office at (202) 707-8180 or fax at (202) 707-3849 or write to the Copyright Office at:

*Library of Congress
Copyright Office
101 Independence Avenue SE
Washington, DC 20559-6000*

For Further Information

Information via the Internet

Circulars, announcements, regulations, other related materials, and all copyright application forms are available from the Copyright Office website at www.copyright.gov.

Information by telephone

For general information about copyright, call the Copyright Public Information Office at (202) 707-3000. The TTY number is (202) 707-6737. Staff members are on duty from 8:30 AM to 5:00 PM, 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 24 hours a day from the Forms and Publications Hotline at (202) 707-9100. Leave a recorded message.

Information by regular mail

Write to:

*Library of Congress
Copyright Office
Publications Section
101 Independence Avenue SE
Washington, DC 20559-6000*