



ANNOUNCEMENT

from the Copyright Office, Library of Congress, Washington, D.C. 20559

FINAL REGULATION

GENERAL PROVISIONS—COMPUTER SHAREWARE REGISTRY

The following excerpt is taken from Volume 58, Number 95 of the Federal Register for Wednesday, May 19, 1993 (pp. 29105-29107)

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 201

[Docket No. 91-11A]

General Provisions - Computer
Shareware Registry

AGENCY: Copyright Office, Library of
Congress.

ACTION: Final regulation.

SUMMARY: The Copyright Office of the Library of Congress is issuing final regulations concerning a registry for documents pertaining to computer software and procedures for donating copies of public domain software. The Judicial Improvements Act of 1990, Pub. L. 101-650, 104 Stat. 5089 [1990] authorized the creation of these new systems of public records. The registry is intended to provide a public record of legal documents pertaining to shareware.

EFFECTIVE DATE: May 19, 1993.

FOR FURTHER INFORMATION CONTACT:
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SUPPLEMENTARY INFORMATION:

Background

On December 1, 1990, the President signed into law the Judicial Improvements

Act of 1990, Pub. L. 101-650, 104 Stat. 5089 (1990) containing several provisions affecting the copyright law. Section 805 of that Act authorized the creation of a registry of documents "designated as pertaining to computer shareware." In addition, the act authorized the establishment of a voluntary system of deposit of public domain software for the benefit of the Machine-Readable Collections Reading Room of the Library of Congress. Section 805 of the Judicial Improvements Act was not codified in the copyright law, and therefore the provisions creating these new systems of records are not codified in title 17.

The provision creating the shareware registry accompanied legislation creating a rental right for computer programs. During legislative deliberations over creating the rental right, concerns were raised that recognition of such a right might adversely effect the shareware industry. The establishment of the shareware registry addressed this concern.

Shareware is a descriptive term applying to a unique way of marketing copyrighted computer programs. Under a shareware system of marketing, the copyright owner of the computer program permits wide distribution of disks embodying the program in order to allow potential users the opportunity for testing and review. The licensing terms extended to distributors to the disks vary. If a person who has received a disk embodying the program decides to use the software, then that person is required to register the use with the author and pay a registration fee. Authors obtain their income through these registration fees, and, in general, the registration fees are lower than the purchase price for a similar program through commercial channels.

The shareware system of marketing

software is an increasingly popular way for authors of computer software to enter the software market. The computer shareware registry is intended as a means for notifying the public of the licensing terms applicable to individual programs marketed on a shareware basis.

2. Interim Regulations

The interim regulation was published in the Federal Register on October 8, 1991, 56 FR 50657. It was generally patterned after the Copyright Act's section 205 recordation system, title 17 U.S.C. In order to record documents in the Registry, the documents were required to be labeled "Documents Pertaining to Computer Shareware." The interim regulation identified such documents as meaning "licenses or other legal documents governing the relationship between copyright owners of computer shareware and persons associated with the dissemination or other use of computer shareware."

Documents which are not designated as pertaining to computer shareware are treated as section 205 recordations, even if they involve computer programs marketed on a shareware basis. In addition, documents transferring ownership of the rights under copyright of computer programs marketed on a shareware basis must be recorded as section 205 transfers.

Documents recorded in the Computer Shareware Registry are maintained in a system separate from ordinary section 205 copyright documents. The catalog records of shareware documents cannot be found by searching the Copyright Office History Documents (COHD) files.

With respect to the donation of public domain software, the interim regulations designated such gifts to be directed to the Exchange and Gift Division of the Library

that if the document is considered valuable, that only copies of that document be submitted for recordation.

(4) The Copyright Office encourages the submission of a machine-readable copy of the document in the form of an IBM-PC compatible disk, in addition to a copy of the document itself.

(e) *Fee.* For a document covering no more than one title, the basic recording fee is \$20. An additional charge of \$10.00 is made for each group of not more than 10 titles. For these purposes the term "title" refers to each computer shareware program covered by the document.

(f) *Date of recordation.* The date of recordation is the date when all of the elements required for recordation, including the prescribed fee have been received in the Copyright Office. After recordation of the statement, the sender will receive a certificate of record from the Copyright Office. The submission will be retained and filed by the Copyright Office, and may be destroyed at a later date after preparing suitable copies, in accordance with usual procedures.

(g) *Donation of public domain computer software.*

(1) Any person may donate a copy of public domain computer software for the benefit of the Machine-Readable Collections Reading Room of the Library of Congress. Decision as to whether any public domain computer software is suitable for accession to the collections rests solely with the Library of Congress. Materials not selected will be disposed of in accordance with usual procedures, including transfer to other libraries, sale, or destruction. Donation of public domain software may be made regardless of whether a document has been recorded pertaining to the software.

(2) In order to donate public domain software, the following conditions must be met:

(i) The copy of the public domain software must contain an explicit disclaimer of copyright protection from the copyright owner.

(ii) The submission should contain documentation regarding the software. If the documentation is in machine-readable form, a print-out of the documentation should be included in the donation.

(iii) If the public domain software is marketed in a box or other packaging, the entire work as distributed, including the packaging, should be deposited.

(iv) If the public domain software is copy protected, two copies of the software must be submitted.

(3) Donations of public domain software with an accompanying letter of explanation must be sent to the following address: Gift Section, Exchange & Gift Division, Library of Congress, Washington, DC 20540.

Dated: April 22, 1993

Ralph Oman
Register of Copyrights

Approved by:
James H. Billington
The Librarian of Congress

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