



This document is scheduled to be published in the Federal Register on 01/24/2012 and available online at <http://federalregister.gov/a/2012-01340>, and on [FDsys.gov](http://FDsys.gov)

## LIBRARY OF CONGRESS

### Copyright Office

[Docket No. 2012-1]

### Copyright Office Fees

**AGENCY:** Copyright Office, Library of Congress.

**ACTION:** Notice of Inquiry; Fees.

---

**SUMMARY:** The U.S. Copyright Office is in the process of reviewing its fees for services and will publish a proposed revised fee schedule in the spring. As part of the process of formulating that fee schedule, the Office seeks the views of interested parties on two particular issues: (1) with respect to the basic registration fee, should special consideration be provided to individual author-claimants registering a single work, and (2) are there any special services and corresponding fees the Office should expand, improve or add to its offerings at this time, including, for example, additional expedited services and fee options.

**DATES:** Comments must be received no later than [INSERT DATE 30 DAYS AFTER PUBLICATION IN THE **FEDERAL REGISTER**].

**ADDRESSES:** The Copyright Office strongly prefers that comments be submitted electronically. A comment page containing a comment form is posted on the Office website at <http://www.copyright.gov/docs/newfeeservices>. The website interface requires submitters to complete a form specifying name and organization, as applicable, and to upload comments as an attachment via a browser button. To meet accessibility standards, submitters must upload comments in a single file not to exceed six megabytes (MB) in one of the following formats: the Adobe Portable Document File (PDF) format that contains searchable, accessible text (not an image); Microsoft Word; WordPerfect; Rich Text Format (RTF); or ASCII text file format (not a scanned document). The form and face of the comments must include both the name of the submitter and

organization. The Office will post all comments publicly on the Office’s website exactly as they are received, along with names and organizations. If electronic submission of comments is not feasible, please contact the Office at 202–707–8380 for special instructions.

**FOR FURTHER INFORMATION CONTACT:** Christopher S. Reed, Senior Advisor for Policy and Special Projects, Office of the Register of Copyrights, or David O. Carson, General Counsel, at 202-707-8350.

**SUPPLEMENTARY INFORMATION:**

**I. Background**

The Copyright Act (the “Act”) provides that the Register of Copyrights may adjust certain fees based upon a study of the costs incurred by the Copyright Office for the registration of claims, the recordation of documents, and the provision of services. 17 U.S.C. 708(b). Since the Act was amended to provide for such adjustments, the Office has undertaken fee studies approximately every three years and made adjustments accordingly. The Office last adjusted fees in 2009. It is currently analyzing costs and corresponding fees and intends to propose a new fee schedule for public comment in the spring of this year.

At this time, the Office seeks public comment on two issues. First, with respect to the basic registration fee, should special consideration be provided to individual author-claimants registering a single work that is not a work made for hire? Second, are there any special services and corresponding fees the Office should expand, improve or add to its offerings at this time, including, for example, additional expedited services and fee options for copyright owners and their representatives?

**II. Discussion**

*A. Applications by Individual Author-Claimants*

The Copyright Office is committed to maintaining an affordable copyright registration system. No author or copyright owner should be deterred from registering a copyright because the

cost of registration is too high. On the other hand, much of the Office's budget comes from the collection of fees for costs of services rendered, and Congress has mandated that the Office periodically study and adjust fees as necessary. But some copyright registration applications are less expensive to process than others. Logically, an application by a single author, who also happens to be the sole copyright claimant, to register a single work should take less time and cost less to examine than an application involving multiple authors or works. At a time when the Copyright Office, like other agencies of the federal government, has a responsibility to provide greater fiscal stewardship (and is being called upon to be more self-sustaining), fees in general are likely to increase, raising possible policy issues. Individual authors may find higher fees an impediment to submitting applications, yet many of the works that come from authors are critical to the nation's economy and the Library of Congress' mint record and collection of American creativity. The copyright law itself is designed to promote and protect authorship and this includes facilitating registration for the establishment of a public record of copyright claims and to enable the copyright owner to seek all the remedies available in the Copyright Act. Similarly, users of copyrighted works rely on the Copyright Office registration records to identify copyright owners when they require licenses. If individual authors do not register and are therefore not part of the public database, they more than any other group of copyright owners may be difficult to find.

The Copyright Office therefore seeks comment from authors, copyright owners and the public in general as to whether, in its proposed new fee schedule, the Office should set a lower fee for an application to register a single work when the application is submitted by a person who is the sole author and the sole copyright owner of the work, the work is not a work made for hire, and the work does not contain material that was previously published or registered. The fee would be lower than the registration fee for other applications in recognition of the lower cost in processing such simple applications as well as the need to encourage individual authors to register their copyrights. More complex registrations, such as those involving groups, collections, multiple titles, etc., require

greater attention of Copyright Office staff (*e.g.*, to ensure that the public database contains sufficient index terms and information) and therefore incur greater costs.

There is some precedent for special treatment for simple basic applications by individual authors. Since 1995, Short Forms PA, TX and VA have been available to register a copyright claim by a living author who is the sole author of his or her work and is the sole owner of copyright in the work. Additional requirements for use of the short form are that the work must be completely new in the sense that it does not contain material that has been previously published or registered or that is in the public domain, and that the work must *not* be a work made for hire – *i.e.*, a work prepared by an employee within the scope of his or her employment; or a work specially ordered or commissioned for certain uses, if the parties expressly state in a written agreement signed by them that the work shall be considered a work made for hire. *See* Instructions for Short Form PA, <http://www.copyright.gov/forms/formpas.pdf>, Instructions for Short Form TX, <http://www.copyright.gov/forms/formtxs.pdf>, and Instructions for Short Form VA, <http://www.copyright.gov/forms/formvas.pdf>. The short form applications are one-sided, one-page applications which are simple to complete and simple to process.

To be clear, the Office is not necessarily proposing a lower fee for short form paper applications. It may well make sense, in the interests of cost savings and efficiency, to restrict any lower-fee option to qualifying applications that are submitted online. Moreover, in some cases the short forms may be used to register collections of works by the same author-claimant, a situation that requires more examination and that may well not warrant a lower fee. And while there is currently no online equivalent of the short form applications, an online application by a single author/claimant of a single work will be much simpler to complete and to examine than a more complicated application. Thus, the apparent reduced cost of processing such applications would appear to justify a reduced fee vis-à-vis other kinds of registrations.

The Office welcomes comments on not only whether, but also under what circumstances, a lower fee for individual authors may be justified and prudent. Among other issues, the Office is interested in hearing whether such an accommodation, if it adopted, should be offered only to qualifying applications that are submitted online, or whether it should also be offered to paper applications submitted using one of the short forms. Although the Office has outlined some particular scenarios above, it welcomes comments on other fact patterns, if not for immediate consideration this spring, for its ongoing analysis.

*B. Other Special Services*

The Office seeks public comment on whether it should offer additional special services on a fee-for-service basis. For example, the Office has heard informal suggestions that some applicants wish to seek expedited registration and would be willing to pay a premium for such accommodation. The Office already offers expedited processing in the form of “Special Handling” for a higher fee (currently \$760 per claim, in addition to the regular filing fee), but such a service is available only in cases where a compelling need for the service exists due to pending or prospective litigation, customs matters, or contract or publishing deadlines that necessitate the expedited issuance of a certificate of registration. *See* 37 C.F.R. 201.15. In Special Handling cases, “every attempt is made to process the claim or recordation within five working days,” *see* Circular 10, “Special Handling,” <http://www.copyright.gov/circs/circ10.pdf>, although Special Handling applications are often processed in a shorter period of time.

Some applicants appear to be willing to pay a higher fee in order to receive expedited processing in cases that do not qualify for Special Handling. Assuming that those requests could be accommodated without impact on the processing of ordinary applications for registration, the Office seeks comments as to whether offering such a service would be desirable. Presumably, the fee would be higher than the fee for Special Handling, since the policy justifications for Special Handling would be absent and the service would be offered as a premium service for those who are willing to

pay more for expedited service. It should be noted that expedited services would not be available until all elements of the claim were fully received (application, deposit, fees); there could not be any unusual or complex issues with the claim, or issues requiring correspondence with the applicant, and paper claims would most likely take longer to process than those filed electronically, even under expedited circumstances.

The Office also welcomes proposals for other special services that should be offered on a fee-for-service basis. The Office will consider all suggestions as it develops and seeks comments on its proposed fee schedule in the months to come.

**Dated:** January 13, 2012

---

Maria A. Pallante,  
Register of Copyrights.

**[BILLING CODE: 1410-30-P]**

**[FR Doc. 2012-1340 Filed 01/23/2012 at 8:45 am; Publication Date: 01/24/2012]**