



## **LIBRARY OF CONGRESS**

### **U.S. Copyright Office**

**[Docket No. 2017-5]**

### **Pilot Program for Bulk Submission of Claims to Copyright**

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

**ACTION:** Public notice.

**SUMMARY:** The U.S. Copyright Office is announcing a pilot program that will allow for the bulk submission of claims to copyright in certain limited types of literary works. Specifically, at this time, the pilot program is limited to claims to single literary works that have a single author, where all content that appears in the work was created and is owned solely by that single author. Applicants that participate in the pilot will be required to provide author, title, and other pertinent information for each work they submit. And they will be required to upload a copy of each work and pay the appropriate filing fee. But they will be able to bypass the Office's online interface and transmit their claims directly into the electronic registration system, instead of filing them on an individual basis. To participate in the pilot, applicants would have to comply with certain technical requirements, which are discussed below. The Office is offering this pilot as part of its continuing effort to increase the efficiency of the registration system for both applicants and the Office alike.

**ADDRESSES:** Entities interested in participating in the pilot program should contact the Copyright Office by submitting their contact information, as well as a description of the type of works sought to be registered and anticipated volume, in the form located at

<https://www.copyright.gov/rulemaking/bulk-submission>. The Copyright Office will contact interested parties after receiving this information.

**FOR FURTHER INFORMATION CONTACT:** Sarang V. Damle, General Counsel and Associate Register of Copyrights, by email at [sdam@loc.gov](mailto:sdam@loc.gov) or by telephone at 202-707-8350, or Robert J. Kasunic, Associate Register and Director of Registration Policy and Practice by telephone at 202-707-8040.

**SUPPLEMENTARY INFORMATION:** In 2013, the U.S. Copyright Office began to identify and evaluate potential improvements and technical enhancements to the information technology platforms that support its electronic registration system. As part of this effort, the Office sought public comment on how stakeholders use the Office's online system, known as "eCO," and whether the system meets or fails to meet user expectations. The Office also sought input on the types of online services that stakeholders would like to see in the future. *See* 78 FR 17722 (Mar. 22, 2013).

The Office received input from various stakeholders, including copyright owners, users of copyright records, technical experts, public interest organizations, professional associations, and small businesses. One recommendation that the Office frequently heard was the need for bulk data transfer between interested parties and the Office. Stakeholders predicted that "system-to-system" or "business-to-business" transfers would allow applicants to submit large quantities of electronic material and associated application data to the Office. They encouraged the Office to take an active role in facilitating this type of data exchange by adopting standards-based protocols, such as ebMS, SOAP, and AS4. 78 FR at 17722, 17723.

In February 2015, the Chief Information Officer for the Copyright Office issued a report that offered several recommendations for creating a better user interface and a better public record. *See* U.S. Copyright Office, Office of the Chief Information Officer, Report and Recommendations of the Technical Upgrades Special Project Team (Feb. 2015), *available at* [http://copyright.gov/docs/technical\\_upgrades/usco-technicalupgrades.pdf](http://copyright.gov/docs/technical_upgrades/usco-technicalupgrades.pdf) (hereinafter “Technical Upgrades Report”). With respect to the electronic registration system, the report recommended that the Office establish a short-term pilot, using the Office’s existing registration system, allowing for the bulk submission of copyright claims from select parties, while maintaining the long-term goal of eventually allowing “open and easy bulk submission” from any interested party in a future registration system. *Id.* at 10, 72. The report predicted that bulk submission would reduce the amount of manual labor involved in submitting claims, and improve the quality of the data that the Office receives. The report encouraged the Office to initiate a pilot “sooner rather than later,” but acknowledged that “such a critical initiative should not be undertaken without proper planning.” *Id.* at 69-70.

The pilot program described in this Notice of Inquiry represents a first step in implementing this recommendation. It also represents a step towards the Office’s ultimate goal of developing “a robust and flexible technology enterprise that is dedicated to the current and future needs of a modern copyright agency.” U.S. Copyright Office, Strategic Plan 2016-2020: Positioning the United States Copyright Office for the Future, at 35 (Dec. 1, 2015), *available at* <http://www.copyright.gov/reports/strategic-plan/sp-2016-2020.html>.

This pilot program will be very limited in scope. It will be available only for claims to single literary works that have a single author, where all content that appears in the work was created and is owned solely by that single author.

### **Works Eligible for Bulk Submission**

Applicants can register most types of works through the eCO system.<sup>1</sup> But they must file their claims through the Office's website, and each claim must be submitted on an individual basis. Many stakeholders complain that this system is cumbersome and difficult to use. Technical Upgrades Report at 18; 78 FR at 17723.

Applicants that have been accepted into the pilot program will be able to bypass the Office's website and the eCO interface. Instead, they will transmit their claims directly into the electronic registration system through a separate portal. And they will be able to submit multiple batches of claims, instead of filing them one by one.

The pilot is intended for applicants that routinely submit large numbers of claims, either on their own behalf or on behalf of other parties. As with any other claim, applicants will be required to provide the information called for in the application, including the author, title, and other pertinent details about each work. But they will be able to send this information in a single transmission instead of preparing separate submissions for each work. Applicants will be required to pay the appropriate filing fee for each claim, but they will be able to pay these fees with a single deduction from their deposit account instead of making separate payments. Finally, applicants will be required to upload a complete electronic copy of each work. But they will be able to bundle these

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<sup>1</sup> As the Office noted in a recent rulemaking, applicants currently must file a paper application to seek a supplementary registration, a renewal registration, or a basic registration for a mask work, a vessel design, a foreign work restored to copyright protection under the Uruguay Round Agreements Act, and certain types of databases. *See* 81 FR 86656, 86657-58 (Dec. 1, 2016).

copies together and send them in a single package, instead of uploading each copy individually. Once these materials have been received, the electronic registration system will match each electronic copy with the corresponding application information for that work.

To be clear, the Office is not creating a new group registration option. The pilot is simply intended to facilitate the submission of large numbers of individual claims that would otherwise be submitted one by one. When the Office receives a bulk submission it will examine each work on an individual basis to determine if it meets the eligibility requirements established for the pilot, and if the other formal and legal requirements have been met. If so, the Office will issue a separate certificate of registration for each work.

As noted above, applicants may be eligible for the bulk submission option only if their claims satisfy certain requirements. Specifically, each claim must be limited to one literary work. Each work must be created by one individual, all the content that appears in the work must be created by that individual, and that individual must be the sole owner of all rights in the work. In this respect, the pilot program will mirror the eligibility requirements that apply when a literary work is submitted with the Single Application. Likewise, the filing fee for claims submitted through the pilot will match the fee that currently applies to the Single Application, namely \$35 for each work. The deposit for each work must be uploaded as one PDF file.

If the Office determines that a particular work does not satisfy these eligibility requirements, it will refuse to register the claim. In particular, works made for hire will not be eligible for the pilot. A work created by two or more individuals will not be eligible. A work will not be eligible if the deposit contains material created by two or

more authors (even if the applicant only intends to register material created by one of those individuals). For the same reason, a derivative work will not be eligible if it is based on a preexisting work by a different author. A work created by one individual will not be eligible if the author transferred his or her rights to another party or if the work is co-owned by two or more parties. Claims involving collective works, an unpublished collection, a unit or publication, a website, a database, or other multiple works also will not be eligible for the pilot.

The Office is limiting the pilot to literary works at this time, because they account for the largest number of claims submitted through the eCO system in any given year. For example, in Fiscal Year 2016, the Office received more than 180,000 literary claims, which represent roughly 36% of the electronic claims submitted during that period. At the same time, the Office must balance the administrative burden that bulk submission may impose on the Office. The Office decided to limit the pilot to works that satisfy the eligibility requirements for the Single Application in part because these claims tend to be less complex than claims involving multiple works, multiple authors, and/or multiple owners. If the pilot is successful, the Office may consider expanding this option to include other types of works.

### **Participation in the Pilot Program**

This Notice provides a general overview of how the pilot program is expected to work. Participants will be allowed to join the pilot only if they cooperate with and obtain approval from the Office's technology staff during each phase. The Office may also limit the total number of participants based on its available resources and the volume of claims that each party plans to submit.

Briefly stated, the Office will create a separate portal into the eCO system for each participant. In addition, the Office will provide participants with an XML (extensive markup language) schema that identifies the type of data that must be included in each submission. The schema will call for a unique tracking number that will be assigned to each claim. It will contain a field for the deposit account that will be used to pay the filing fee for each claim. And it will contain data fields that match the corresponding fields in the Single Application for literary works. These fields include the type of work; title of work; completion date; publication status; name of author, claimant, and correspondent; and the name of the person who certified the application.<sup>2</sup>

Each participant will develop its own internal systems for collecting this data. In addition, each participant will create a secure gateway – in close consultation with the Office’s technology staff – that will be used to transmit this data to the Office. Participants will be required to conduct extensive testing to confirm that their gateway is compatible with the eCO system before they will be allowed to use the bulk submission option.

Once it has been tested and approved, the gateway will be attached to the portal and will interact directly with the eCO system. Briefly stated, participants will transmit streams of data through the gateway in an XML format using the HTTPS secure transport protocol. Participants will use the HTTP “POST” method to submit an electronic copy of each work in a PDF format. The Office does not plan to limit the number of claims that may be included within each submission, but each batch must include a header that identifies the total number of claims contained therein.

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<sup>2</sup> The schema also will include optional fields for limiting the claim, providing rights and permissions information, and requesting special handling.

Once the XML stream and the electronic copies have been sent through the gateway, the participant will receive an email notification acknowledging the receipt of the transmission. Before the transmission is entered into the eCO system, the Office will scan it for potential security issues, such as the presence of malicious code. Next, the transmission will be scanned to determine if (i) there is a sufficient amount of money in the participant's deposit account to cover the filing fees, (ii) a copy of each work has been submitted, and (iii) the electronic copies can be linked to the corresponding data file for each work. If not, the system will reject the entire batch and send an email notification to the participant. Finally, the system will scan each transmission to determine if any information appears to be missing from the claims, such as the author or title of a particular work. If so, the system will send an email notification to the participant regarding that claim. In such cases, the participant will need to correct the issue and resubmit the claim in another bulk submission.<sup>3</sup>

If the transmission is accepted, the XML streams will auto-populate the corresponding fields within the electronic registration system. The tracking number for each work will be used to connect the electronic copies with the corresponding data file for that work. The eCO system will assign a service request number to each claim, and eventually they will be distributed to an examiner – just like any other claim that is submitted through the Office's website. If the claims are approved, the Office will send a certificate of registration to the person named in the correspondent field.

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<sup>3</sup> Alternatively, the participant could file a separate application for that claim by submitting an application deposit and filing fee through the Office's website.

Parties that are interested in participating in this pilot program should contact the Copyright Office using the contact information in the “Addresses” section above.

Dated: May 3, 2017.

**Sarang V. Damle,**  
*General Counsel and Associate Register of Copyrights.*

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