



Copyright Office

37 CFR Parts 201, 202

[Docket No. 2024-2]

Group Registration of Two-Dimensional Artwork

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

ACTION: Final rule.

SUMMARY: The U.S. Copyright Office is creating a new group registration option for two-dimensional artwork. This option will allow applicants to register up to twenty works published within one calendar year by submitting a single online application with a digital deposit copy of each work. The Office will examine each work to determine if it contains a sufficient amount of creative pictorial or graphic authorship. If the Office registers the claim, the registration will cover each artwork in the group as a separate work of authorship.

DATES: Effective [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Rhea Efthimiadis, Assistant to the General Counsel, by email at mefi@copyright.gov, or by telephone at 202-707-8350.

SUPPLEMENTARY INFORMATION:

I. Background¹

The Copyright Act authorizes the Register of Copyrights to specify by regulation the administrative classes of works available for the purpose of registration and the

¹ Comments received in response to the notice of proposed rulemaking are referenced by party name (abbreviated where appropriate) followed by “Comments.” Additionally, this document references a number of prior rulemakings in which commenters have requested group registration, including: 80 FR 23054 (Apr. 24, 2015) (“Visual Works NOI”); 81 FR 86643 (Dec. 1, 2016) (“Group Photographs NPRM”); 83 FR 24054 (May 24, 2018) (“2019 Fee Study NPRM”); 83 FR 52336 (Oct. 17, 2018) (“Registration Modernization NOI”); and 86 FR 70540 (Dec. 10, 2021) (“Deferred Registration Examination Study NOI”).

deposit required for each class.² The Act also gives the Register the discretion to allow registration of groups of related works with one application and filing fee.³ Pursuant to her authority to establish group registration options, the Register has issued regulations permitting group registrations for several types of works, including news websites, newspapers, newsletters and serials, unpublished and published photographs, contributions to periodicals, secure test items, works on an album of music, short online literary works, and database updates.⁴

The Office initiated this rulemaking after receiving requests from stakeholders to establish a new group registration option for two-dimensional artwork.⁵ Stakeholder groups representing artists identified several common features of two-dimensional artwork, including its distinct vulnerability to downstream infringement⁶ and the significant number of works some artists produce each year.⁷ Stakeholders also stated that, despite infringement concerns, most artists do not engage with the Office’s registration system due to the cost of registering individual works relative to their

² 17 U.S.C. 408(c)(1).

³ *Id.*

⁴ 37 CFR 202.3(b)(5), 202.4(c)–(k), (m), (o).

⁵ Copyright Alliance, Comments in Response to Deferred Registration Examination Study NOI, at 31 (Jan. 24, 2022) (urging the Office to create “a group registration option for illustrations”); Coalition of Visual Artists (“Coalition”), Comments in Response to 2019 Fee Study NPRM, at 35 (May 24, 2018) (“We believe that the current [Group Registration of Published Photographs (“GRPPH”)] and [Group Registration of Unpublished Photographs] group registrations should be expanded to include all such two-dimensional visual works, including without limitation, illustrations, graphic art, video clips, textile arts or visual art in any medium.”); Coalition, Comments in Response to Group Photographs NPRM, at 60 (Jan. 30, 2017) (asking the Office to “[a]llow group registration for all two-dimensional artworks (visual works)”); Graphic Artists Guild, Comments in Response to Visual Works NOI, at 9 (July 20, 2015) (requesting “a new ruling to allow Group registration for illustration and graphic design; for all visual works, not just photographs”); Ass’n of Med. Illustrators (“AMI”), Comments in Response to Registration Modernization NOI, at 9 (Jan. 15, 2019) (“[AMI] wishes to emphasize that the option of group registration for multiple published images for a single, reasonable fee should be available for works of visual art”); Shaftel & Schmelzer, Comments in Response to Registration Modernization NOI, at 30–31 (Jan. 11, 2019) (“The Graphic Artists Guild has been on record to the Copyright Office asking to include illustration and graphic art in the Group registration category since 1999; at every Roundtable discussion, annual meeting, and nearly every NOI comment letter for the last 20 years.” (footnote omitted)).

⁶ Downstream infringement involves the unauthorized use of copyrighted material by companies or individuals further removed from the artist-to-client relationship.

⁷ Group Registration of Two-Dimensional Artwork, 89 FR 11789, 11789–90 (Feb. 15, 2024) (“NPRM”).

potential revenue, the lack of time and resources necessary to register multiple individual works, and unfamiliarity or difficulty with the registration process.⁸

On February 15, 2024, the Office published a Notice of Proposed Rulemaking (“NPRM”) to establish a new group registration option for two-dimensional artwork, recognizing the challenges facing artists and a “legitimate need” for a new group registration option.⁹ The NPRM proposed allowing an applicant to register a group of up to ten works published within a thirty-day time period by submitting a single online application with a digital deposit copy of each work. Each work included would have to be a single two-dimensional pictorial or graphic work, such as a painting, sketch, or character artwork; three-dimensional works, works consisting of multiple images, and architectural works or technical drawings would not be eligible for this group registration option. The proposed rule stated that the Office would examine each work to determine if it contains a sufficient amount of creative pictorial or graphic authorship for copyright protection. If registered, each artwork would be considered a separate work of authorship. The rule also included a requirement that each work in the group be created by the same author, who is also the copyright claimant for each work. Finally, applicants would be required to identify the title and publication date for each work, and to submit their claims through the online copyright registration system, using an application specific to this group registration option.

The Office received fourteen comments in response to the NPRM. Almost all commenters supported the Office’s proposal to create the new group registration option.¹⁰

⁸ *Id.* at 11790. Multiple commenters echoed these concerns. *See, e.g.*, Coalition Comments at 31; Artists Rights Society Comment at 3; Copyright Alliance Comments at 3.

⁹ NPRM at 11789.

¹⁰ *See generally* Am. Intell. Prop. L. Ass’n (“AIPLA”) Comments; Jason Aquilino Comments; Artists Rights Society Comments; AMI Comments; Chris Faircloth Comments; Elizabeth Townsend Gard et al. Comments; Kernochan Center Comments; Nat’l Soc’y of Ent. & Arts Laws. (“NSEAL”) Comments; Damian P Comments. One commenter took no position on the NPRM’s primary focus. *See* Am. Ass’n of Indep. Music & Recording Indus. Ass’n of Am., Inc. (“A2IM & RIAA”) Comments at 2 (“Commenters express no position on the primary focus of the NPRM—whether the Office should create a new group

Some requested modifications to the rule, and three expressly conditioned their support on substantive changes, which would substantially change the rule’s scope.¹¹ In general, commenters proposed expanding eligibility: increasing the number of works that can be included, lengthening the time period during which all works within the application must be published (and clarifying the publication dates), and permitting the inclusion of additional types of works. Some commenters proposed including three-dimensional works; others proposed permitting works by joint authors, and revising the works made for hire and author/claimant requirements. Several commenters also proposed alternative procedures for amending or annotating the submitted registration record; adjusting the filing fee; and using an alternative application form. Finally, one commenter suggested the Office permit applicants to “choose the name for their group of works being registered.”¹² The Office has reviewed and carefully considered each of the comments.

The final rule adopts the proposed rule with two clarifications and two modifications expanding the number of works that can be included and the time period within which they have been published, as described below. With respect to requests that the scope of the rule be expanded further, the Office will closely monitor the use of the new group option and determine whether future consideration is warranted.

II. The Final Rule

A. Eligibility Requirements

1. Types of Works that May Be Included

In the NPRM, the Office proposed limiting this group registration option to “a pictorial or graphic work that has been fixed in a two-dimensional form,” such as character artwork or logos. It proposed that each pictorial or graphic work within the

registration option for two-dimensional artwork—or on the details of how such an option would or should be implemented.”). The Office also received one terse anonymous comment. *See* Anonymous Comments (“[T]errible”).

¹¹ *See generally* Coalition Comments; Copyright Alliance Comments; Joshua Kaufman Comments.

¹² Coalition Comments at 21.

group consist of “no more than a single pictorial or graphic work, such as one drawing, one illustration, one comic strip, or one fabric design, and the work must be deposited in one uploaded file.” Several commenters urged the Office to expand the rule to include other types of works, including three-dimensional works, architectural works or technical drawings, and applied art.¹³ The Coalition of Visual Artists (“Coalition”) stated that these works “involve the same review for copyrightability as the USCO proposes in the Rule.”¹⁴ Two commenters also specifically asserted that any distinction between two- and three-dimensional works is “arbitrary” because “in most instances the deposit copies provided in both [] are going to be the same.”¹⁵ Professors Elizabeth Townsend Gard and Blaze D’Amico further stated that the proposed rule “puts a burdensome disadvantage on 3d artwork,” and “promot[es] an outmoded concept of art as binary.”¹⁶ The Copyright Alliance also sought “[m]ore clarification” on how “burdensome” the examination process is for three-dimensional works versus two-dimensional works to “better understand why these works have been excluded.”¹⁷ Other commenters, however, appeared satisfied with the types of works included in the NPRM.¹⁸

The Office understands stakeholders’ desire to maximizes group registration options, but declines to expand the rule to permit inclusion of three-dimensional and

¹³ See AIPLA Comments at 1 (“We encourage the office to revisit [the three-dimensional works] issue in the future, as the need among creators for group registration options for three-dimensional works may change in the coming years.”); Copyright Alliance Comments at 11 (“The Office’s discussion of three-dimensional (3D) works in this NPRM only highlights the need to enable applicants filing registrations for these works to use this registration option to cover both the 2D and 3D elements of a three-dimensional work in the same application.”); Coalition Comments at 9 (“The USCO should permit 3D artists to submit multiple photos of a single 3D work showing all sides of the work as a single image for registration purposes. This is the only practical way for a 3D artist to register published works, works in production, and works offered for sale to the public.”); Elizabeth Townsend Gard et al. Comments at 1–2 (“[W]e propose amending the new proposed application for artwork to reflect more accessibility for *all artists*, regardless of medium, with the recognition that many are concerned about protecting their work, whether they are commercial artists, professional artists, art students, or hobbyists.”); Joshua Kaufman Comments.

¹⁴ Coalition Comments at 8.

¹⁵ *Id.* at 8–9; Copyright Alliance Comments at 11.

¹⁶ Elizabeth Townsend Gard et al. Comments at 2.

¹⁷ Copyright Alliance Comments at 12.

¹⁸ See Jason Aquilino Comments; AMI Comments at 2; Chris Faircloth Comments; Damian P Comments.

architectural works. First, a reasonable limit on the eligible types of works within a group is necessary to manage the administrative burden of examining group registrations. Inclusion of three-dimensional and architectural works in this group registration option would increase the time and cost of examination, as consideration of such works demands the application of legal standards that are not generally at issue for two-dimensional works. For instance, examiners considering three-dimensional and architectural works must often determine whether the works are useful articles, works of artistic craftsmanship, or building designs. In addition to applying the originality standard, consideration of architectural works requires examiners to determine whether the works' stationary habitual structures are intended for permanency and designed for human occupancy.¹⁹ Likewise, examining works of applied art requires examiners to apply the Supreme Court's two-step separability test to determine whether they serve a useful purpose or whether they contain pictorial, graphic, or sculptural features that can be identified and separated from the article's utilitarian aspects.²⁰ These issues do not generally arise in evaluation of claims for two-dimensional works.

Second, among the justifications for creating a group registration option for two-dimensional art is that visual artists are often prolific creators who produce a significant number of works each year.²¹ But the same premise does not appear to hold with respect to three-dimensional artworks. As the NPRM notes, the Coalition previously submitted survey results indicating that most three-dimensional artists produce between one and

¹⁹ 37 CFR 202.11(b).

²⁰ See *Star Athletica, L.L.C. v. Varsity Brands, Inc.*, 580 U.S. 405, 409 (2017); *U.S. Copyright Office, Compendium of U.S. Copyright Office Practices* secs. 924, 925 (3d ed. 2021) ("*Compendium (Third)*"). These differences in legal considerations persist regardless of whether deposits for two- and three-dimensional works share common features (*i.e.*, where a claimant submits two-dimensional identifying material depicting three-dimensional works).

²¹ NPRM at 11789.

fifty works per year.²² Evidence submitted in response to the current NPRM does not undermine the Office’s conclusion or establish that three-dimensional works are now created or distributed more rapidly. Although the Coalition provided updated survey results indicating that at least some artists create large numbers of works, several features of the new survey make it less relevant than the group’s prior survey.²³ The new survey did not distinguish between respondents who typically create three-dimensional works and those who typically create two-dimensional works; and the survey sought information on “the *greatest number* of works [respondents] have created in one month” rather than their average rate of creation.²⁴ The question further instructed respondents to “includ[e] preliminary works (rough sketches, drafts, comps)” as well “final versions that may be shown to clients or others at any point in time or offered for sale.”²⁵ The routine rate of production of two- and three-dimensional works appears to meaningfully differ and, at this time, stakeholders have not demonstrated a distinct need to include three-dimensional and architectural works in the new group registration option. To the extent that artists who create three-dimensional works produce a large number of preliminary works, the Office notes that some of these works may be eligible for an existing group registration option. The Group Registration of Unpublished Works (“GRUW”) option allows creators to register up to ten sculptural works before they have been published, if all other requirements and eligibility criteria are met.

²² Compare NPRM at 11791 (quoting Coalition, Comments in Response to 2019 Fee Study NPRM, App. B, at 44 (Oct. 11, 2018), in which artists who typically create three-dimensional works were asked “[o]n the average . . . [h]ow many finished works of art/design do you produce in a year?” and “[m]ore than 63% of the participants said they produce between one and fifty works per year”) with Coalition, Comments in Response to 2019 Fee Study NPRM, App. B, at 12 (Oct. 11, 2018) (in which artists who typically create two-dimensional works were asked the same question and approximately 45% of the participants said they produce between 51 and 1,000 works per year).

²³ See Coalition Comments, App. B. Similarly, while AIPLA stated that “3D printing” technology has made it relatively easy to create three-dimensional works, there is no indication that these works are a sizable portion or representative of three-dimensional works overall. AIPLA Comments at 1.

²⁴ Coalition Comments, App. B, at 4 (asking respondents to provide “the *greatest number* of works [they] have created in one month,” rather than the average number of works per month).

²⁵ *Id.*, App. B, at 4 (emphasis added). Participants completing this survey included surface and textile designers, fine artists, sculptors, and jewelry designers. *Id.*, App. B, at 1–3.

2. Number of Works that May Be Included

The NPRM proposed that an applicant be permitted to include up to ten published pictorial or graphic works in each application. Several commenters requested modification of this requirement to include a greater number of works. Professors Gard and D’Amico recommended that the limit be increased to twenty works, similar to the Group Registration for Works on an Album of Music (“GRAM”) option.²⁶ The National Society of Entertainment and Arts Lawyers (“NSEAL”) proposed allowing applicants to register up to twenty-five works per application.²⁷ The Coalition suggested that the application permit “up to 100 works,” stating that this limit would “accommodate the majority of artists.”²⁸ Other commenters suggested that the proposed limit was too low but did not propose a specific alternative. The Copyright Alliance asserted that the limit was “too small” to make it a “*sufficiently beneficial* registration option,” particularly when viewed in combination with the proposed rule’s other limitations.²⁹ The Kernochan Center for Law, Media and the Arts asked that the Office “permit more works to be registered.”³⁰

In response, the Office has modified the final rule to allow for up to twenty works per group. This number strikes an appropriate balance between making registration more

²⁶ Elizabeth Townsend Gard et al. Comments at 2, 15; *see also id.* at 17, 26–27 (“[W]e request the application form for art work be modified after the GRAM application, and have the following attributes. . . . 2–20 works.”). As an alternative, they also suggested that there be no limitation on the number of works submitted, based off the Group Contributions to Periodical Option. *See id.* at 28.

²⁷ NSEAL Comments at 2.

²⁸ Coalition Comments at 13, 16. The Coalition also suggested that increasing the limit to 500 works “would include everyone’s needs,” based on its own assessment of its 2023 survey. *Id.* at 15–16.

²⁹ Copyright Alliance Comments at 7, 9.

³⁰ Kernochan Center Comments at 1–3. The Kernochan Center observed that the type of works that could be registered under the proposed application “appears materially smaller” than those under the Group Registration of Unpublished Works (“GRUW”) application. It also requested that the Office acknowledge that examination times under the proposed group registration option “may be lower than GRUW examination times,” due to the former’s restrictions on the types of works permitted. *Id.* at 3. This assumption, however, may not be apt. Two-dimensional artwork accounts for the vast majority of claims submitted to the Visual Arts Division on the GRUW application and, as of yet, there is no basis to conclude that the amount of time needed to examine ten works submitted via GRUW or Group Registration of Two-Dimensional Artwork (“GR2D”) will be markedly different.

accessible for creators and taking into account the Office’s administrative capabilities.³¹ As stated in the NPRM, examining visual art, including two-dimensional artwork, is a time-consuming process that requires care.³² Examiners must determine whether each work contains sufficient copyrightable authorship; this can involve a range of complex issues, such as determining the extent of any derivative authorship.³³ Increasing the number of permitted works to twenty is likely to increase the time necessary to examine some claims, but the Office is persuaded that this change is also likely to facilitate registration of more works—including works by creators who might not otherwise use the registration system. The Office will monitor utilization of the new group registration option to determine whether this number provides an effective limit, and whether the group option’s application fee is sufficient to account for corresponding examination times.

3. *Title Requirements*

The proposed rule stated that applicants must provide the title for each work included in the group and that the electronic registration system would automatically add a title for the group as a whole that consists of the “title of the first work listed in the application followed by the phrase ‘and [NUMBER] other published works’ (depending on how many titles are entered in the application).”³⁴ The title for the group as a whole would be used to identify the registration in the online public record.³⁵

³¹ See NPRM at 11791–94.

³² *Id.* at 11793.

³³ *Id.*

³⁴ *Id.* at 11794. The proposed rule also required an applicant to upload an electronic deposit copy of each work, with each file name assigned to each electronic deposit copy matching the corresponding title entered on the application. If a mismatch occurred, the proposed rule stated that an examiner may take certain actions without first communicating with the applicant. *Id.* at 11794 & n.60. The Office’s position on this portion of the rulemaking and any responsive comments are discussed in a subsequent subsection.

³⁵ *Id.* at 11794.

The Coalition expressed concern about the automatic addition of the title for the group as a whole.³⁶ It stated that the proposed rule’s approach of using the title of the first work listed in the application is problematic, as it “may have no connection to the other works in the group and may not clearly describe the grouping” and “will likely result in mistakes.”³⁷ The Coalition urged the Office to instead allow artists to choose their own name for the group of works, consistent with naming procedure for the Group Registration of Published Photographs (“GRPPH”) option.

The Office has revised this aspect of the rule to address this concern. The application will not add a system-generated title for the group as a whole, but instead will require applicants to create their own title for the group, similar to the GRPPH option.

4. Publication Requirements

In the NPRM, the Office proposed that the new group registration option be available only when all works in a group have been published within a thirty-day period.³⁸ The NPRM further explained the publication requirement, stating:

[T]he Office will generally accept that a work has been published when a visual artist distributes a copy to a client or other entity and authorizes them to retain, reproduce, redistribute, or display that copy (subject to any licenses or other restrictions that the artist may impose).³⁹

The NPRM also proposed that applicants be required to provide the earliest and most recent publication dates of works within the group, and the country where the works were first published.⁴⁰

³⁶ Coalition Comments at 21–22.

³⁷ *Id.*

³⁸ NPRM at 11794. This limitation applies regardless of whether works were first published in physical or electronic form.

³⁹ *Id.*

⁴⁰ *Id.*

i. Publication

The Coalition noted their appreciation for the NPRM’s “clear definition of ‘publication’ for artwork” and the Office’s effort “to help creative professionals more clearly understand the meaning” of the term.⁴¹ Still, commenters like the Copyright Alliance observed that “it [is] extremely difficult for creators of two-dimensional works to know when to register their works,” as “[v]isual artists often work on deadlines that are fluid and have quick turnaround times. Moreover, these artists often do not know when the revision process will end, resulting in a final version of the work.”⁴² In light of the challenges some artists face in determining the date of their works’ publication, Professors Gard and D’Amico suggested that the Office be “lenient” when people incorrectly identify a work as published or unpublished.⁴³

As the Office has stated in previous rulemakings, section 409 of the Copyright Act requires registration applications to inquire about a work’s publication status, including the date and nation of the work’s first publication.⁴⁴ The Office, however, will generally accept an applicant’s statements about publication as true unless those statements are contradicted by information contained within the registration materials.⁴⁵

Two commenters asked the Office for clarification on whether applicants must list the specific publication date for each work or whether applicants need only provide the earliest and most recent publication date for works within the group.⁴⁶ The Office has clarified the final rule. The rule requires applicants to provide a date range for all the

⁴¹ Coalition Comments at 27 (stating that this clarification is “what visual artists have been [seeking from] the USCO for many years”).

⁴² Copyright Alliance Comments at 13.

⁴³ Elizabeth Townsend Gard et al. Comments at 3.

⁴⁴ 17 U.S.C. 409(8); *see also, e.g.*, 85 FR 37341, 37344–45 (June 22, 2020) (group registration of short online literary works final rule); 84 FR 3693, 3695–96 (Feb. 13, 2019) (group registration of unpublished works final rule).

⁴⁵ *See, e.g., Compendium (Third)* sec. 1904.3; *see also* NPRM at 11795 (explaining the Office’s general rule on accepting applicants’ determinations).

⁴⁶ Coalition Comments at 22–23; Copyright Alliance Comments at 4 & n.2. *See* NPRM at 11791, 11794.

works within the group; to do so, applicants must state the earliest and most recent publication date (*i.e.*, month, day, and year) for the group.⁴⁷ When providing title information for each work within the group, applicants must also identify the month that each work was first published.⁴⁸ Applicants need not provide the exact publication date for each individual work.⁴⁹ As stated in the NPRM, applicants are also required to identify the country where the works were first published.⁵⁰

ii. Expansion from Thirty-Day Limit to One-Year Limit

In response to the NPRM's suggestion that works in a group must be published within a 30-day period, a number of commenters advocated for a longer time period.⁵¹ Commenters proposed specific time periods ranging from ninety (90) days to one calendar year.⁵² One commenter suggested that the Office eliminate the time period

⁴⁷ This requirement is consistent with several other group registration options. *See, e.g.*, 37 CFR 202.4(i)(6) (necessitating that applicants for group registrations of published photographs “specify the earliest and latest date that the photographs were published”), (j)(2) (explaining that under the group registration for short online literary works applicants must “identify the earliest and latest date that the works were published”).

⁴⁸ This requirement allows the Office to ensure compliance with the rule's calendar-year period. It is also consistent with other group registration options. *See, e.g., id.* at 202.4(i)(10) (requiring applicants for group registration of published photographs to provide the title, file name, and month and year of publication for each photograph in the group), (j)(8) (requiring applicants of the group registration for short online literary works to provide the publication date of each work when providing the title and file name for each work).

⁴⁹ Should applicants choose to provide any additional information, such as the specific day and/or year that a particular work was published, that information may be added in the “Note to Copyright Office” section.

⁵⁰ To add the nation of first publication, applicants should select the name of the appropriate country from the drop-down menu marked “Nation of First Publication.” If the works were published in multiple countries, the names of the other countries may be provided in the “Note to Copyright Office” section.

⁵¹ *See* Kernochan Center Comments at 3 (expressing skepticism of the proposed timeframe, given that other group registration options have longer timeframes, and recommending instead that the Office “confer with authors of two-dimensional works to understand what publication timeline is reasonable”); Joshua Kaufman Comments (explaining that the timeframe renders the group registration option inapplicable to “almost all” fine artists, as they “rarely” publish works within thirty days); Copyright Alliance Comments at 9–10 (stating that the proposed timeframe is “too restrictive” and “extremely burdensome” because artists' creative processes often exceeds thirty days). *C.f.* Jason Aquilino Comments (approving of 30-day period).

⁵² *See* AMI Comments at 2 (90-day timeframe would “allow creators more opportunity to efficiently group multiple iterations and derivatives of the same work into the same application,” resulting in fewer registration applications and simplifying examiners' review processes); Coalition Comments at 3, 12, 27 (one calendar year timeframe aligns with other group registration options, such as GRPPH); NSEAL Comments at 2 (one calendar year timeframe alleviates the burden on applicants who may not publish within the proposed timeframe and furthers the Office's “interest in protecting the quality and utility of public record”). Other commenters advocated for enlarging the time period, but did not provide a specific recommendation. *See supra* note 51.

limitation altogether.⁵³ Association of Medical Illustrators asserted that enlarging the time frame would cause “no additional burden” for examiners, who have to determine whether each work within the group falls within the permissible publication date range, regardless of what that range is.⁵⁴

In light of this input, the final rule permits works published within the same calendar year to be registered as a group.⁵⁵ In other words, for a group of works published in 2025, both the work with the earliest publication date and the work with the most recent publication date must have been published in 2025 (*i.e.*, between 01/01/2025 and 12/31/2025).⁵⁶ Applicants will be required to identify the month that each work was published, and they may (but need not) provide a more specific date in the “Note to Copyright Office.” The Office believes that this approach will ease some of the purported burdens faced by artists, while still protecting the quality and the utility of the public record.

5. Authorship and Ownership Requirements

The proposed rule would require that all works in a group be created by the same author, and the author be named as the copyright claimant even if a transfer of ownership has occurred.⁵⁷ Works made for hire would be eligible for this option, so long as the employer or commissioning party is named as the author and claimant on the

⁵³ Elizabeth Townsend Gard et al. Comments at 3, 15, 27, 33 (proposing that the Office limit the thirty-day timeframe because it “does not reflect artists’ needs” and when viewed in conjunction with the proposed number of works permitted under this option).

⁵⁴ AMI Comments at 2.

⁵⁵ At this time, given administrative capabilities, the Office cannot expand the option to cover works published outside of the calendar-year range.

⁵⁶ Please note that to claim statutory damages or attorney’s fees in a copyright infringement lawsuit, a work must be registered before the infringement began or within three months after the first publication of the work. *See* 17 U.S.C. 412(c), 504, 505. Thus, to maximize potential benefits under the law, applicants may choose to file claims on a quarterly basis (once every three months).

⁵⁷ As explained in the NPRM, this rule is consistent with the basic principle that an author may always be named as the copyright claimant, even if they do not own any of the exclusive rights when the claim is submitted.

application.⁵⁸ The option, however, would not be available to works created by two or more authors (*i.e.*, joint works).

Commenters praised the Office’s proposal to permit works made for hire under the option.⁵⁹ Four commenters, however, urged the Office to go further, allowing group registration of jointly authored works. These commenters noted that “many visual artists . . . collaborate . . . and frequently partner with other artists.”⁶⁰ Some contended that the rules for the GR2D and GRUW options should be consistent;⁶¹ others requested the eligibility criteria for GR2D to mirror that of GRAM, which permits works made for hire and works created by multiple authors if there is a common joint author.⁶²

Having considered these requests, the Office maintains its conclusion that works created by common or joint authors should be ineligible for the GR2D option. Joint authorship claims add complexity to an already multifaceted examination, resulting in greater burden on the Office’s resources. Additionally, the Office is not persuaded that there is a compelling need to allow joint authorship claims within the GR2D option, in light of its experience with Standard and GRUW applications for visual art works—the vast majority of which name only one author per application.⁶³ Each group registration option is designed to accommodate copyright owners’ requests balanced against the

⁵⁸ The rule does not permit applicants to register works created by an individual author together with works created pursuant to a work made for hire agreement. For example, if a small business commissioned a set of fabric designs through a work made for hire agreement and acquired another set of designs through an assignment of copyright from an individual author, the applicant would need to divide those designs into two groups and submit a separate GR2D application for each group—one with the small business named as the author/claimant and the work made for hire question answered “yes,” and the other with the individual author named as the author/claimant with the question answered “no.”

⁵⁹ Coalition Comments at 33–34; Copyright Alliance Comments at 12.

⁶⁰ Copyright Alliance Comments at 10; *see also* Coalition Comments at 23–24; Elizabeth Townsend Gard et al. Comments at 3; Damian P Comments.

⁶¹ Coalition Comments at 27–28 (advocating for consistency between these rules, “especially because the [Office] advises artists to register their work before publication”); Copyright Alliance Comments at 11.

⁶² Elizabeth Townsend Gard et al. Comments at 26–27.

⁶³ Although the Copyright Alliance questioned the Office’s reliance on registration data, it provided no meaningfully workable alternative. Copyright Alliance Comments at 11 (stating that “[t]he fact that these joint authors do not register Standard and GRUW applications may say more about the registration system, confusion about registration requirements, and the type of authors who are presently register[ing] their works” than about the needs of visual artists).

Office’s need for an efficient method of examining, indexing, and cataloging each work—and not every group option entails the same balance. As described in the NPRM, the Office tailored the proposed GR2D rule to address the challenges facing individual artists and small businesses in registering two-dimensional artwork one work at a time, in light of concerns that these claimants often lack the time and resources required to register works individually.⁶⁴ While the Office recognizes commenters’ desire for a rule that sweeps even more broadly, the Office must balance the interests of copyright owners with the administrative burden of implementation. In light of the wide range of pictorial and graphic works, the doubling of the number of works permitted in each group in the final rule, and the modest fee set for this option, some limits on the types of claims permitted are necessary.

B. Filing Fee

The NPRM proposed an \$85 filing fee.⁶⁵ It explained that \$85 is the fee that currently applies to GRUW claims, and that the expected workflow associated with examining groups of two-dimensional artworks and GRUW claims are similar.⁶⁶

Commenters generally advocated for a lower fee.⁶⁷ The Coalition and the Copyright Alliance argued that the fee is “much too high, especially given the ten-work and thirty-day time period limitations.”⁶⁸ The Copyright Alliance acknowledged that “the rate for GR2D would be the same as GRUW at \$8.50 per work (if ten works are grouped together),” but claimed that that rate “is on the costlier side when compared to other group registration options.”⁶⁹

⁶⁴ NPRM at 11790.

⁶⁵ *Id.* at 11796–97.

⁶⁶ *Id.*

⁶⁷ One commenter agreed that the \$85 proposed fee was reasonable. Elizabeth Townsend Gard et al. Comments at 27.

⁶⁸ Copyright Alliance Comments at 10; Coalition Comments at 31.

⁶⁹ Copyright Alliance Comments at 10.

The final rule retains the \$85 fee, but responds to stakeholders' concerns about affordability by allowing for the registration of more works per group. By amending the rule to permit applicants to register up to twenty works published within one calendar year,⁷⁰ the Office has effectively reduced the per-work cost of registration by half, to \$4.25 per work.

C. Application Requirements

The NPRM explained that the Office plans to adapt one of its existing group registration application forms to avoid delaying the implementation of the new group option for visual artists. Specifically, the Office stated that it would modify the GRUW application to create the GR2D form. While the Copyright Alliance advised the Office to start from scratch, other commenters urged the Office to model the GR2D application after the GRAM, GRPPH, or Contributions to Periodicals forms, all of which permit inclusion of works published within a twelve-month period.⁷¹

The Office has tailored the application to suit the eligibility and application requirements described in the final rule. Specific instructions on how to complete the new application will be provided on the application itself and through the Office's traditional channels, including its website, Circulars, and/or Chapter 1100 of the *Compendium of U.S. Copyright Office Practices* ("Compendium"). In addition, the Office intends to offer a video providing step-by-step instructions on how to complete the form.

D. Amending or Annotating the Registration Record

Finally, the NPRM stated that the examiner would be permitted to amend or annotate the registration record without corresponding with the applicant, in certain circumstances. First, if an applicant were to submit a work that is ineligible for this group registration option, or submit more than the allowable number of works, the examiner

⁷⁰ This fee will be reevaluated when the Office initiates its fee study.

⁷¹ Elizabeth Townsend Gard et al. Comments at 2; Kernochan Center Comments at 2; Copyright Alliance Comments at 9.

would be permitted to remove the ineligible or additional titles and deposits from the registration record and send a post-registration email to the applicant explaining why the change was made. Second, if the titles and file names did not match, the examiner would be permitted to remove the mismatched titles and files from the registration record and send a post-registration email to explain the amendment.⁷² Third, if an applicant were to submit two-dimensional identifying material depicting a three-dimensional work of authorship (such as a drawing of a toy or a piece of jewelry), the examiner would be permitted to add an annotation to the record confirming that the registration does not cover any three-dimensional authorship that is shown in the deposit. Allowing examiners to avoid superfluous communications with applicants in these limited circumstances promotes efficient review, improving overall processing times for all applicants.⁷³

Multiple commenters raised concern that these policies would “allow copyright examiners to make unilateral changes to a copyright registration application to correct perceived mistakes or misunderstandings *without any input from or correspondence with the applicant,*” which “could result in a registration certificate that does not reflect the applicant’s intentions in filing the application.”⁷⁴ The Copyright Alliance argued that “not allowing creators to correct mistakes in their applications before the registration certificate is issued or the application is rejected” may result in material losses for applicants seeking statutory damages in infringement actions.⁷⁵ Commenters urged the Office to clarify that “examiners are *not* permitted to make unilateral changes to a group

⁷² Additionally, reasoning that the system would automatically add a group title to the GR2D application, the NPRM stated that the examiner would remove any “collection” titles provided instead of or in addition to titles for the individual works. In response to commenters’ request, the system will not insert an automated group title. Instead, applicants should provide their own.

⁷³ *Compendium (Third)* sec. 605.3(B).

⁷⁴ A2IM & RIAA Comments at 2–3; AIPLA Comments at 2; AMI Comments at 2; Coalition Comments at 10–11; Copyright Alliance Comments at 5–7.

⁷⁵ Copyright Alliance Comments at 5–7 (“If an applicant does not find out that their registration application doesn’t cover certain works until after the time period to be eligible for statutory damages has lapsed, they would not be able to recover statutory damages for infringement of that work.”).

registration of two-dimensional artwork but, instead, must communicate with the applicant before making any changes, just as examiners do with every other type of registration application.”⁷⁶

While the Office acknowledges these concerns, authorizing an appropriate level of examiner discretion is essential to ensure the efficient processing of claims. This is especially true here, where the permitted examiner amendments and annotations merely enforce the group option criteria. Moreover, contrary to commenters’ suggestions, the latitude the new rule allows examiners is consistent with longstanding Office policy and practice. The *Compendium* already permits examiners discretion to amend the registration record without communicating with an applicant where the issue may be clearly resolved via examination.⁷⁷ Likewise, the *Compendium* permits examiners to “annotate an application without communicating with the applicant if the annotation does not cast doubt on or raise a question concerning the validity of the registration.”⁷⁸

It would be infeasible for examiners to provide extensive correspondence when examining group registration claims involving multiple works. To the extent that they do so when examining Standard and Single Applications, that process imposes less administrative burdens than group registration. The somewhat more limited communication described in the final rule is consistent with the Office’s implementation of these practices in its administration of the GRUW option. Based on this experience, the Office has found that an appropriate level of examiner discretion ensures an efficient and productive examination process.

The Office is strongly committed to assisting applicants as they navigate the registration system. It encourages applicants to take full advantage of the resources that

⁷⁶ A2IM & RIAA Comments at 4; Copyright Alliance Comments at 5.

⁷⁷ *Compendium (Third)* secs. 603.2(A), 603.2(B).

⁷⁸ *Id.* at 604.

the Office provides to aid them in registration, including the *Compendium* and educational Circulars, the webinars and other educational materials available on the Office’s website, and the dedicated specialists in the Office of Public Information and Education who are available to provide live, one-on-one support.

List of Subjects

37 CFR Part 201

Copyright, General provisions.

37 CFR Part 202

Copyright, Copyright claims, preregistration and registration.

Final Regulations

For the reasons set forth in the preamble, the Copyright Office amends 37 CFR parts 201 and 202 as follows:

PART 201—GENERAL PROVISIONS

1. The authority citation for part 201 continues to read as follows:

Authority: 17 U.S.C. 702.

Section 201.10 also issued under 17 U.S.C. 304.

2. In §201.3, amend table 1 to paragraph (c) by redesignating paragraphs (c)(10) through (c)(30) as (c)(11) through (c)(31), respectively, and adding a new paragraph (c)(10) to read as follows:

§ 201.3 Fees for registration, recordation, and related services, special services, and services performed by the Licensing Section and the Copyright Claims Board.

* * * * *

(c) * * *

Table 1 to Paragraph (c)

Registration, recordation, and related services	Fees (S)
* * * * *	

(10) Registration of a claim in a group of unpublished works or a claim in a group of two-dimensional artwork	85
* * * * *	

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PART 202— PREREGISTRATION AND REGISTRATION OF CLAIMS TO COPYRIGHT

3. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 408(f), 702.

4. Amend § 202.4 by:

a. Adding paragraph (l).

b. In paragraph (r), by removing “(k), or” and adding in its place “(k), (l), or”.

The addition reads as follows:

§ 202.4 Group registration.

* * * * *

(l) *Group registration of two-dimensional artwork.* Pursuant to the authority granted by 17 U.S.C. 408(c)(2), the Register of Copyrights has determined that a group of two-dimensional artwork may be registered in Class VA with one application, the required deposit, and the filing fee required by § 201.3(c) of this chapter if the following conditions are met:

(1) All the works in the group must be two-dimensional pictorial or graphic works, and each work must be comprised of no more than one pictorial or graphic work. The group may include up to twenty works, and the application must specify the total number of works that are included in the group. The group may not include any three-dimensional pictorial, graphic, or sculptural works, any architectural works, technical drawings, or works of applied art, any works comprised of multiple pictorial or graphic works, including compilations, collective works, databases, or websites. Claims in any form of

authorship other than “2D artwork” or claims in the selection, coordination, or arrangement of the group as a whole will not be permitted on the application.

(2) The applicant must provide a title for each work in the group.

(3) All the works must be created by the same author, and the author must be named as the copyright claimant for each work in the group. The group may not include any works created by more than one author. The works may be registered as works made for hire if they are identified in the application as such.

(4) All the works must be published within one calendar year, the applicant must specify the earliest and latest date that the works were published during the year and the month of publication for each work.

(5) The applicant must complete and submit the online application designated for a group of two-dimensional artwork. The application may be submitted by any of the parties listed in § 202.3(c)(1).

(6) The applicant must submit one complete copy of each work. The works must be assembled in an orderly form with each work contained in a separate electronic file. The file name for each work must match the title as submitted on the application. All of the works must be submitted in one of the electronic formats approved by the Office, and they must be uploaded to the electronic registration system. The file size for each uploaded file must not exceed 500 megabytes; the files may be compressed to comply with this requirement.

(7) In an exceptional case, the Copyright Office may waive the online filing requirement set forth in paragraph (1)(5) of this section or may grant special relief from the deposit requirement under § 202.20(d) of this chapter, subject to such conditions as the Associate Register of Copyrights and Director of the Office of Registration Policy and Practice may impose on the applicant.

* * * * *

§ 202.6 [Amended]

5. In § 202.6, amend paragraph (e)(2) by removing “or a group of works published on the same album registered under § 202.4(k),” and adding in its place “a group of works published on the same album registered under § 202.4(k), or a group of two-dimensional artwork under § 202.4(1),”.

Dated: December 16, 2025

Shira Perlmutter,

Register of Copyrights and

Director of the U.S. Copyright Office

Approved by:

Robert R. Newlen,

Acting Librarian of Congress

[BILLING CODE 1410-30-P]

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