

Copyrights – How To Get Started Registering Your Images

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With only a few exceptions, the moment your shutter is clicked or a digital capture is made, a **copyright** is created, and if you were the one at the shutter, you own it. As the copyright owner, there are certain things that only you can do: reproduce the work, make derivatives of the work, distribute copies of the work to the public by sale or other transfer of ownership, such as by rental, lease, or lending. Too often though someone does something with one of your images and you're told you cannot do anything about it. This might or might not be true. It may depend a lot on whether or not you've registered your copyright.

When someone infringes upon your copyright, most often by reproducing your image in a way you haven't granted permission, and your image has been registered with the U.S. Copyright office, you may have a winnable case. That is, if you choose to pursue it. Even if you don't pursue the infringement in court, having your image registered can give you quite a bit of leverage in negotiating compensation for the infringement. Often this leverage alone can encourage the infringer to settle instead of going to court.

That's the benefit of pursuing a copyright violation. However, without proof of registration, it's not likely you'll receive any compensation for the infringement. You might be able to find an attorney that would take your case, but more likely than not, they will want their fee up front to file your claim. Then it's anybody's guess if you'll prevail or not – one thing that is likely, your attorney will bill you for his time at his hourly rate. Infringement cases on registered images take place in Federal Court (at least currently). When your case is presented with your registration to substantiate your claim, the outcome can be fairly predictable – it's likely you'll prevail.

With proof of registration and infringement, intellectual property attorneys are often eager to pursue such a case without their fee up front, because not only could you win compensation for

your work as you normally would charge for it, but you'll likely be eligible for statutory damages up to \$150,000 per occurrence, plus, attorney fees.

You never know when this could happen so isn't it worth the \$55 (as of this writing) registration fee? It's a lot like *Image Insurance*. This fee could be included in your Cost of Goods Sold – which likely would become a deductible business expense. (Be sure to check with your accountant to be sure.)

Once you've decided to add registration to your workflow, decide how often you want to perform the registration process. Some register per client, others schedule the registration at some interval, i.e. every quarter or 90 days, or what fits your schedule – just don't put it off to once a year and forget to do it. Every 90 days is the minimum recommended interval.

Step 1 - Create Your Deposit: Using your post processing software, create a new folder to collect your images into for registration.

Note: The most typical registration is for all images to be **unpublished** and to have been created in the same year – different years of creation require separate registrations, as well as Published and Unpublished works cannot be mixed. Registering **unpublished** works is by far the easiest route.

This version of your images should be at least 800px on the long side, quality 5 JPEG images. The Copyright office doesn't need, and doesn't really want large images. The images just have to be large enough to be rendered for viewing in court, if necessary – an alternative is to make contact sheets of your images if that would be easier for you.

Step 2 - Compress Your Deposit: Compress these images into a ZIP file – on Mac, simply highlight all your images in Finder, then right-

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click and select Compress. On Windows, use Explorer's built in compression features, or a standalone Zip compression app. When finished, rename this file from the default file name to something that reminds you of what's inside, for example: "2016-03_OwnerName_Collection.zip" (Of course, replace *OwnerName* with the owner's name.) Replace *Collection* with something meaningful such as "2016-Q1-Registration." During the registration process this ZIP file will be required to be uploaded and will be referred to as your **Deposit**.

One additional consideration – under what name should you register your images? If you register them under your business name and later sell your business, be aware the copyrights are an asset of the business and stay with the business; you won't own any of them any longer. However, if you register your images under your name and you sell your business, you retain ownership of the copyright to the images. You'll need to decide which way you want to go, as it's required during the registration process.

Prerequisites: 1) The ZIP file of your images, 2) the name you are going to register your images under, 3) a credit card for payment of the registration fee, 4) Internet access from a non-mobile device, and 5) the Firefox browser for the Microsoft Windows 7 operating system. Wait, what?

When you navigate to U.S. Copyright website, <http://eco.copyright.gov>, one of the first things you'll notice is the warning the website displays about the browser you should be using. They advise the Firefox Browser on the Microsoft Windows 7 operating system. Use Firefox, even if you have to download and install it, just to be safe. If you're on a Mac, you're pretty much on your own. My experience has been with Firefox and Chrome on the Mac – so far, no problems. This is not a guarantee, but Chrome works for me.

Step 3 - Login or Register: If you've registered before, enter your User ID and Password, otherwise, you'll need to register as a new user – nothing really special required – just enter all the information it asks for and continue. Once you've created your user id and logged in, you're ready to begin.

Step 4 – Start a New Claim: On the left side of the webpage, under Copyright Registration, click "Register a New Claim" – if the website hasn't changed (and it occasionally does), the resulting page will ask 3 questions to determine the appropriate application for registering your work: 1) Are you registering one work – if you're registering a single image, check "Yes" otherwise, check "No" for registering a 'collection' this is probably what you'll do on a recurring basis. 2) The work being registered was created by one person – if you are the only photographer, this is a "Yes" – otherwise, click "No". 3) Copyright in the work is solely owned by the person who created it. – If you're the only photographer, click "Yes."

If you can't check "Yes" for the 2nd and 3rd questions, follow the link "Register a claim in 3 steps" for the latest instructions on how to proceed. It's likely the whole process won't ask anything you won't be able to answer. But if you have questions, use the Copyright Office's contact link to ask questions. Be aware, they will likely only answer procedural registration questions, not ones that an intellectual property attorney would be required to answer. If you're the only photographer and the sole owner of the copyright, let's move on.

Note: if you had a second shooter that made the capture of some of the images you're registering. Well, question #2 would be a "No" but don't panic. Just read and answer the questions the best you can when you reach that portion of the registration process.

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The easiest path is to just make sure *you* own the copyright to all the images being registered. If your second shooter was your employee (at the end of the year you give them a W2, not a 1099) or you had a contract in place that made them an *independent contractor* and you made sure the contract included an agreement that their work for you was a *work for hire*, such that they have transferred their copyright to you so that you are the sole owner of the Copyrights – the answer to question #3 would be “Yes.”

After checking the appropriate checkboxes, click “Start Registration.” The next webpage is where it all really begins. Notice on the left hand side there is the status of your registration and the steps to complete. Where you are in the process is identified by the arrow “>” in the first box.

Relax, it’s not nearly as daunting as it seems. The Copyright office has gone to great lengths to make this easy. Whenever you might be confused, or concerned about your action or answer, click the “Help” link; it will open a new tab or window with a detailed explanation.

Tip: Pay attention to anything on the webpage in Red – read before proceeding. Required fields are marked with an asterisk (*). They must be answered or completed before continuing. If you miss something, you will see the message “ERROR - All mandatory fields must be completed.” in Red. Check all the fields and find the one(s) you may have overlooked, correct them and continue.

As a photographer or illustrator registering images, the Copyright Office refers to these as “Work of the Visual Arts” – select that and click “Continue” to proceed. Next you need to “Title” this work. Click the “New” button to create the title. Select “Title of work being registered,” fill in your title, and click “Save.” After the save, Notice

the “Status” box now has a check mark showing you’ve completed this step. Click “Continue.”

This next question is where we have to part ways. Depending upon the type of registration, Published or Unpublished, the questions and web pages are going to be different and there’s no way I can predict what you’re going to need to fill out or answer. But before we wrap up, let me leave you with one last tip:

The next webpage is probably going to ask for the author’s name and information. If this is your first registration, click the “New” button to enter your information. If you’ve registered before, click the “Add Me” button and your previously saved information will be retrieved and entered. Either way creating a new “me” or using “Add Me” you will be given the opportunity to update your information. After saving your information, every webpage that needs your information, and there’ll be more than you expect, will have an “Add Me” button that you can use.

Now it’s a matter of answering the questions, of lot of them can be filled in by the “Add Me” button. Just be sure to read the questions and give the best answer you can. This will get you through the first section of the registration process. The second section is pretty easy, use your credit card and pay for the registration. After this, the third section is where you will upload your **Deposit**. Just like almost any upload you’ve ever done before, click the button to select your file, navigate to your Zip file, and upload it. In the past, you had to make sure your upload could complete in the time allowed, however, recent changes have expanded the upload to be able to upload multiple files. With modern Internet speeds, you probably won’t need this, but if you do, it’s there for you.

Last Step: After all is complete, you’ll receive an email confirmation. Keep copies of this. Then sometime in the not to distant future, you will receive either your official registration from the

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Copyright Office by USPS mail or a letter requesting additional required information that may have been omitted.

Keep your official registration – it's what you'll need if you ever need to defend a copyright or pursue an infringement.

Disclaimer: This article is a brief introduction to the U.S. Copyright registration process. It's impossible to predict every situation or contingency that could arise. As such, there are no guarantees or warranties that even if the above suggestions are followed to the letter something won't go wrong or have a problem. It's a roadmap to get you started registering your images with the U.S. Copyright office. In no way is it meant to be legal advice – if you have legal questions, problems, or receive queries from the U.S. Copyright office, consult an intellectual property attorney familiar with the entire copyright process.