

# Copyright Registration for Derivative Works

## Derivative Works

A “derivative work,” that is, a work that is based on (or derived from) one or more already existing works, is copyrightable if it includes what the copyright law calls an “original work of authorship.” Derivative works, also known as “new versions,” include such works as translations, musical arrangements, dramatizations, fictionalizations, art reproductions, and condensations. Any work in which the editorial revisions, annotations, elaborations, or other modifications represent, as a whole, an original work of authorship is a derivative work or new version.

A typical example of a derivative work received for registration in the Copyright Office is one that is primarily a new work but incorporates some previously published material. This previously published material makes the work a derivative work under the copyright law.

To be copyrightable, a derivative work must be different enough from the original to be regarded as a “new work” or must contain a substantial amount of new material. Making minor changes or additions of little substance to a preexisting work will not qualify the work as a new version for copyright purposes. The new material must be original and copyrightable in itself. Titles, short phrases, and format, for example, are not copyrightable.

## Examples of Derivative Works

The following examples show some of the many different types of derivative works:

- Television documentary (which contains some archival footage and photographs)
- Motion picture (based on a play)
- Novel in English (a translation of a book originally published in Russian)
- Sound recording (CD in which two of the ten selections were previously published online)
- Sculpture (based on a drawing)
- Drawing (based on a photograph)
- Book of maps (based on public domain maps with some new maps)
- Lithograph (based on a painting)
- Biography of John Doe (which contains journal entries and letters by John Doe)
- Drama about John Doe (based on the letters and journal entries of John Doe)
- SACD (in which all the tracks were previously released in a CD and have been remixed)

- Words and music (some of the words are from the Bible)
- Words and musical arrangement (arrangement is based on a piece by Bach)
- Musical arrangement (based on a work by Bach)

### **Compilations and Abridgments**

Compilations and abridgments may also be copyrightable if they contain new work of authorship. When the collecting of the preexisting material that makes up the compilation is a purely mechanical task with no element of editorial selection, or when only a few minor deletions constitute an abridgment, copyright protection for the compilation or abridgment as a new version is not available.

Some examples of copyrightable compilations are:

- Book of *Best Short Stories of 2006* (selected from stories published in magazines and literary journals in 2006)
- Sound recording of *Biggest Pop Hits of 2004* (selected from recordings released in 2000)
- Book of *Great News Photos of 2002* (selected from newspapers and newsmagazines published in 2002)

In the above examples, original authorship was involved in deciding which were the best stories, the biggest hits, or greatest photos and in what order to present the respective works within the compilation.

### **Copyright Protection in a Derivative Work**

The copyright in a derivative work covers only the additions, changes, or other new material appearing for the first time in the work. It does not extend to any preexisting material and does not imply a copyright in that material.

One cannot extend the length of protection for a copyrighted work by creating a derivative work. A work that has fallen in the public domain, that is, a work that is no longer protected by copyright, may be used for a derivative work, but the copyright in the derivative work will not restore the copyright of the public domain material. Neither will it prevent anyone else from using the same public domain work for another derivative work.

In any case where a protected work is used unlawfully, that is, without the permission of the owner of copyright, copyright will not be extended to the illegally used part.

### **Who May Prepare a Derivative Work?**

Only the owner of copyright in a work has the right to prepare, or to authorize someone else to create, a new version of that work. The owner is generally the author or someone who has obtained rights from the author. Anyone interested in a work who does not know the owner of copyright may search the records of the Copyright Office. Or, the Office will conduct a search for an hourly fee\*. For further information, request Circular 22, *How to Investigate the Copyright Status of a Work*.

**NOTE:** Copyright Office fees are subject to change.

For current fees, please check the Copyright Office website at [www.copyright.gov](http://www.copyright.gov), write the Copyright Office, or call (202) 707-3000.

### **Notice of Copyright**

Before March 1, 1989, the use of copyright notice was mandatory on all published works, and any work first published before that date should have carried a notice. For works published on and after March 1, 1989, use of copyright notice is optional.

Although not required by law, it is perfectly acceptable (and often helpful) for a work to contain a notice for the original material as well as for the new work. For example, if a previously registered book contains only a new introduction, the notice might be:

© 1941 John Doe; introduction © 2002 Mary Smith

For more information about copyright notice, see Circular 3, *Copyright Notice*.

### **Application Forms**

The appropriate application form to use to register a claim to copyright in a derivative work depends upon the type of work for which registration is sought. It does not depend upon the preexisting or public domain material that may have been used to create the derivative work.

For example, to register a claim for a screenplay based on a novel, use Form PA (for performing arts), not Form TX (for original novels). To register a sound recording based on previously registered words and music, use Form SR (for sound recordings), not Form PA (for original words and music).

## Application Forms

**Form TX:** for published and unpublished nondramatic literary works (books, poetry, essays, lectures, computer programs, etc.)

**Form SE:** for serials, works issued or intended to be issued in successive parts bearing numerical or chronological designations and intended to be continued indefinitely (periodicals, newspapers, magazines, newsletters, annuals, journals, etc.)

**Form PA:** for published and unpublished works of the performing arts (musical and dramatic works, pantomimes and choreographic works, motion pictures and other audiovisual works)

**Form VA:** for published and unpublished works of the visual arts (architectural, pictorial, graphic, and sculptural works)

**Form SR:** for published and unpublished sound recordings

Instructions for completing each space of the application accompany the form. Nevertheless, registration is often delayed because of mistakes or omissions in filling out the form. The following points should be helpful. They are not, however, a substitute for the instructions.

**Space 2. Author(s)** · Name the author(s) of the copyrightable material being claimed. Ordinarily, the author is the person who actually created the work. (Where the work or any contribution to it is a work made for hire, the employer is considered the author. See the instruction form for more information on work made for hire.) Do not name the author of previously published or registered work(s) or public domain material incorporated into the derivative work, unless that person is also the author of the new material. Space 2 should name the author(s) of the copyrightable material described at space 6b.

**Nature of authorship** · Specify what the author(s) created. Examples include “compilation and editorial revision,” “translation,” “new text,” “music,” “words,” “arrangement,” “screenplay,” “dramatization,” “artwork,” “coauthor of cartographic material.”

**Space 3. Creation** · The year of creation is the year in which the new work—the particular version for which registration is sought—was fixed in a copy or phonorecord for the first time, even if other versions exist or if further changes or additions are planned. Do not confuse creation with publication.

**Publication** · The copyright law defines “publication” as “the distribution of copies or phonorecords of a work to the public by sale or other transfer of ownership, or by rental,

lease, or lending. The offering to distribute copies or phonorecords to a group of persons for purposes of further distribution, public performance, or public display, constitutes publication. A public performance or display of a work does not of itself constitute publication.”

The following do not constitute publication: performing the work, preparing phonorecords, or sending the work to the Copyright Office.

The date of publication is the month, day, and year when the work for which registration is sought was first published. *If the work has not been published, leave this part of space 3 blank.*

**Space 4. Copyright claimant(s)** · The copyright claimant is either the author of this work or a person or organization who has obtained from the author all the rights he or she initially owned. When the claimant named is not the author, a brief transfer statement is required at space 4 to show how the claimant acquired the copyright. Examples of generally acceptable transfer statements are “by written agreement”; “by assignment”; “by written contract”; “by will.” Do not attach copies of documents of transfer to the application.

When the name of the claimant is not the name of the author given at space 2, but the two names identify one person, the relationship between the names should be explained at space 4. Examples are: “Doe Publishing Company, solely owned by John Doe” or “John Doe doing business as Doe Recording Company.”

**Space 5. Previous registration** · If no registration has been made for this version or an earlier version of this work, answer the first question “no” and leave the rest of space 5 blank.

Answer the first question “yes” only if a previous registration for this work or another version of it was completed and a certificate of registration issued. If you answer “yes,” check the appropriate box to show why you seek another registration, and give the requested information about the previous registration, if known.

**Space 6. Derivative work or compilation** · Complete this space if the work being registered contains a *substantial* amount of material that:

- was previously published
- was previously registered in the U.S. Copyright Office
- is in the public domain, or
- is not included in the claim

**Preexisting material (space 6a)** · Briefly, in general terms, describe the preexisting material that has been recast, transformed, or adapted. See examples below. Do not complete this space for compilations.

**New material added (space 6b)** · Briefly, in general terms, describe all new copyrightable authorship covered by the copyright claim for which you seek this registration. See examples below. All elements of authorship described in space 2 should be accounted for in space 6b. The statement used in 6b may be used in space 2 to describe the author's contribution. Authors of preexisting material identified in space 6a should *not* be named in space 2.

If the claim is in the compilation only, state "compilation" at space 6b. If the claim is in the compilation and any other material, state both "compilation" and the material that has been compiled, for example, "Compilation and foreword," "Compilation of photographs, additional photography, and foreword," "Compilation of recordings and liner notes," "Compilation of gospel songs, additional music, and foreword," "Compilation of 19th Century Political Cartoons, new foreword, and index."

Examples for space 6a and 6b entries for derivative works:

- motion picture—  
6a: *original novel "Little Women"*  
6b: *dramatization for television*
- musical arrangement—  
6a: *music*  
6b: *arrangement for piano and orchestra*
- drama—  
6a: *acts I and II*  
6b: *revisions throughout; act III completely new*
- book—  
6a: *Shakespeare's "Romeo and Juliet"*  
6b: *new introduction and foreword*
- catalog—  
6a: *1989 catalog*  
6b: *editorial revisions and additional material*
- lithographic print—  
6a: *19th century oil painting*  
6b: *reproduction of 19th century oil painting by photolithography*

- book of maps—  
6a: *U.S. Geological Survey map of southern Virginia*  
6b: *additional cartographic authorship and text*
- sound recording—  
6a: *music*  
6b: *new words, arrangement, and sounds*
- sound recording—  
6a: *recorded performances on bands 2 and 4–8*  
6b: *recorded performances on bands 1 and 3*
- sound recording—  
6a: *1970 recording by Sperryville Symphony of Bach Double Concerto*  
6b: *remixed sounds from original multitrack sound sources*

## For Further Information

### Information via the Internet

Circulars, announcements, regulations, other related materials, and all copyright application forms are available from the Copyright Office website at [www.copyright.gov](http://www.copyright.gov).

### Information by telephone

For general information about copyright, call the Copyright Public Information Office at (202) 707-3000. The TTY number is (202) 707-6737. Staff members are on duty from 8:30 AM to 5:00 PM, eastern time, Monday through Friday, except federal holidays. Recorded information is available 24 hours a day. Or, if you know which application forms and circulars you want, request them 24 hours a day from the Forms and Publications Hotline at (202) 707-9100. Leave a recorded message.

### Information by regular mail

Write to:

*Library of Congress  
Copyright Office  
Publications Section  
101 Independence Avenue SE  
Washington, DC 20559-6000*