

## How to Register Your Copyright While Incarcerated



### *What is Copyright and What Does it Protect?*

Copyright law protects expressions contained in creative works, like books, poems, songs, painting, illustrations, and many other works. Copyright is automatic when you create a work without copying the work of someone else, that is put down in a tangible medium, like paper, canvas, or film, and is original. This does not mean your work must be novel — it simply means that there be a least a small amount of creativity.

Works protected by copyright include, but are not limited to:

- Musical works such as an original composition or sound recording
- Visual art such as drawings, sculptures, and photography
- Literature such as books and poems
- Dramatic works such as plays
- Audiovisual works such as films

Maybe you have written a story or poem, or have made a drawing or painting, or have composed some music or lyrics. These are all examples of expressive creations that are protected by copyright once you record them on paper or some other medium.

Jane is a talented visual artist who sketches beautiful portraits of her friends using pencil and paper. Jane is also serving a federal prison sentence. Even while behind bars, Jane has rights in her work under the Copyright Act. Jane's idea in her mind for a sketch is not protectable, but as soon as she draws that sketch out on paper, it is protected by copyright law. Though copyright law protections apply to Jane's work as soon as she sketches out the work, copyright registration provides further benefits.

### *Registering Your Copyrighted Work*

The Copyright Office makes it easy to register your copyright online with a relatively low fee (see Fees below). But, if you are incarcerated, you may not have access to the internet. It might also be hard to use your current address, because it might not be permanent. And, you might not even have the registration fee handy.

Here we show you *how to register your copyright through someone you trust*. This is not legal advice. For that, you need a lawyer. But you do not need a lawyer to complete registration of your copyright. All the facts here are based on information found at the U.S. Copyright Office.<sup>1</sup>

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<sup>1</sup> Some information here is found online. If you do not have access to the internet, we suggest asking someone who does for assistance. See "Who can act as your agent?" below.

Your registration options:

- You can file a copyright registration form with the Copyright Office yourself.
- **You can have a trusted representative file it for you. We explain how to do this here.**
- You can license your work to someone else, who will then register the copyright. In some cases, you can still control what happens to your work.

Registering a copyright requires:

1. Filling out and submitting a form,
2. Sending a copy of the work being registered to the Copyright Office,
3. With payment of the registration fee.

The materials may be completed and submitted online or by mail (the fee is higher and the approval time is longer by mail). The copyright registration form may be completed by:

- The creator (author),
- The owner of the work (if different from the author),<sup>2</sup> or
- An authorized agent on behalf of an author or owner.

Whether or not you register your copyright, it makes sense to put the following information on the front or back of your work to make it clear that you own and intend to protect your work (the year should be the year you created the work and write, draw, or otherwise put it down in a tangible medium):

Copyright © 2025, by Your Full Name.

### *Why Register?*

Although you own the copyright to your work as soon as you write, draw, or otherwise put it down in a tangible medium and you are not *required* to register your work with the Copyright Office, there are some benefits to registering your work with the Copyright Office, including:

**Ability to bring a copyright infringement lawsuit:** If someone else copies your work, you can sue them for copyright infringement in federal court or bring a claim in the Copyright Claims Board (CCB). Without a registration certificate or a pending registration application, this is not possible.

**Evidence of validity:** A Certificate of Registration issued by the Copyright Office is evidence that your copyright is valid. It is also helpful, but not necessary, if you want to license or assign your work, for example, if you want to make a deal with a book publisher or record label.

**Statutory damages and attorney's fees:** Statutory damages can be awarded when you successfully prove that the defendant has committed copyright infringement. Statutory damages are pre-

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<sup>2</sup> To research information or obtain records about copyright ownership of previously registered works, you can search the U.S. Copyright Office's [online public catalogues](https://www.copyright.gov/public-records/) (<https://www.copyright.gov/public-records/>) or contact and request information from the [Copyright Office's Records Research and Certification Division](#) by emailing them at [copycerts@loc.gov](mailto:copycerts@loc.gov) or calling the Copyright Office at 1 (877) 476-0778. Do NOT send requests under the Freedom of Information Act (FOIA) to the Copyright Office for specific registration or recordation records.

assigned money amounts that a court can award for each work that is infringed, as opposed to actual damages, which are money amounts that a court awards for the lost profits related to infringement. For example, if someone copies your copyrighted work and receives money through that infringement, the court can award you the defendant's profits as your actual damages because that money could have potentially gone to you. Alternatively, the court can award you statutory damages, as opposed to actual damages, which are normally easier to prove and can be larger in size, therefore making it more worthwhile to sue. If you register your work prior to the infringement, you may be able to recover statutory damages and also attorney's fees, which is not possible if you don't register your work until after the infringement occurs. If you think your work has potential financial value, register it early!

**Creates a public record and presumption of ownership:** Registering your creative work lets the world know that you are claiming ownership in that work. This can lead to more people knowing what your work is and who you are. For example, if someone wants to license your work, meaning they want to pay you to use your creative work in their own work, this public record will communicate who to contact for permission.

### *Who Can Act as Your Agent?*

Agents may include, but are not limited to, "legal guardians, business managers, literary agents, and attorneys" (this terminology is from the Copyright Office). There are no specific qualifications or tests required by the Copyright Office to be an agent. However, at a minimum, your authorized agent should be an individual you trust who has both a regular mailing address and an email address.

All correspondence regarding your application from the Copyright Office will go to your agent. Your copyright certificate, once granted by the Copyright Office, will be mailed to your agent's address. Because the certificate is considered a legal document that establishes your copyright ownership, your agent's mailing address should be a reliable place to mail the certificate as well as other correspondence related to this legal document.

Some questions to ask when considering whom to enlist as your copyright registration agent:

- Does this person have *your* best interest in mind?
- Does this person have a permanent address to receive mail?
- If filing online, does this person have a reliable email address?
- Are you in consistent communication with this person?

The key pieces in a copyright application include:

- A completed application form.
- A non-returnable copy of the work being registered.
- A non-refundable filing fee.

### *Completing the Application Form*

Here is the information you and your agent will need to know to complete the application form:

- Type of work: You must identify whether your work is a literary work, work of the visual arts, sound recording, work of the performing arts, or a motion picture.

- Title of the work: All works must have a title.
- Author(s): Any and all creators of the work must be listed.
- Date of publication/completion: The Copyright Office differentiates between *published* and *unpublished* works. Publication is effective on the date that copies of the work are first made publicly available, while unpublished works have never been distributed in any way (see the distinction at the Copyright Alliance here: <https://copyrightalliance.org/faqs/difference-between-published-unpublished-works/>).
- Name of the claimant(s): A claimant is generally also the author of the work. However, when copyright ownership has been assigned or exclusively licensed to another person, they are the claimant.
- Limitation of claim: The applicant must note and exclude any material that is not copyrightable. This can include: 1) previously published material; 2) material owned by someone else, 3) material in the public domain, or 4) material generated by artificial intelligence. For example, if you write a book but you ask someone else to provide the illustrations, you must include that you are not claiming that material, as those illustrations were made by someone else.
- Rights and permissions: The applicant must provide contact information for a person or organization that can be contacted to discuss information regarding copyright management and permission to use the work.
- Name and address of correspondent: The applicant must provide the name, email address, and physical address of someone the Copyright Office can contact if they have questions regarding the copyright application. That could be either you or your agent.
- Name and address to mail the certificate: The applicant must provide the name and address where the certificate should be mailed.
- Certification: The applicant must certify that they are the author, claimant, or authorized agent of the work.

The applicant should review the application for accuracy and completeness prior to submitting it.

## ***Fees***

You and your agent should understand the difference between a *Standard Application* and a *Single Application*. A Standard Application is used for most works, including those by one author, a joint work, a work made for hire, a derivative work, a collective work, or a compilation. A Single Application must register only one work (such as a single poem, song, or photograph), created by only one person, with all the material in the work created by that one individual, with the author and owner being the same person, and not a “work made for hire” created by or for another entity, such as through employment or a contract. In addition, a *Group Registration* can include up to 10 *unpublished* works. Online videos explaining these types of applications can be found on the Copyright Office website: Standard Application <https://www.copyright.gov/eco/standard.mp4>; Single Application <https://www.copyright.gov/eco/single.mp4>; Group Registration <https://stream-media.loc.gov/copyright/gruw.mp4>. See also frequently asked questions here: <https://www.copyright.gov/eco/faq.html>.

The fee for an electronic filing for a Standard Application is \$65; for a Single Application, single author filing one work is \$45; a Group Registration is \$85 (a paper filing is \$125). However, the Copyright Office may revise its fee schedule. You or your agent should consult fee information at the Copyright Office website for details, <https://www.copyright.gov/about/fees.html>.

## *Deposit copy*

The Copyright Office website indicates that two copies of the best edition of every copyrightable work published in the United States be sent to the Copyright Office within three months of publication for use of the Library of Congress.

### *Next Steps*

1. Select your trusted agent and share this document.
2. Ask your agent to review the information on the U.S. Copyright Office website:  
<https://www.copyright.gov/>
3. Ask your agent to review the information and resources available at the Copyright Alliance, including the possibility of paying for copyright application fees:  
<https://copyrightalliance.org/>
4. Make a plan for how you will work with your agent to register your copyright application/s.

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This document was prepared by R. Oroma Womeodu, Esq., Professor Viva Moffat, Eliza Granger, and John R. Whitman in collaboration with the Institute for Intellectual Property and Social Justice, the Copyright Alliance, and the Museum for Black Innovation and Entrepreneurship. For those interested in writing in prison, we suggest asking the prison library for PEN America's *The Sentences That Create Us: Crafting a Writer's Life in Prison*, edited by Caitis Meissner (Haymarket, 2022). The book offers excellent tips on how to get started. It may also be ordered here: <https://pen.org/program/the-sentences-that-create-us/>. For Black creators, Indigenous creators, and creators of color (BIPOC creators), we encourage you to visit <https://copyrightalliance.org/about-ipdc-program/> to learn more about the Initiative to Promote Diversity in Copyright (IPDC) program, which is a free program that provides qualified participants with copyright registration assistance and education.

Your right to copyright your expressive creations is established by the United States Constitution in Article I, Section 8, Clause 8. We congratulate you for adding your creative works to the nation's treasury of innovation.



All material in this document is informational in nature and does not constitute legal advice. Please address comments to:

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