

Copyright Registration – Software

Eligible Works

A “computer program” is a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result.

Trade Secret Limitations

Whenever portions of code are blocked out, the following requirements must be met: (1) the blocked out portions must be proportionately less than the material remaining; and (2) the visible portion must represent an appreciable amount of original computer code.

When to File

Within 90 days of release of the software (this includes beta-releases). For works that have already been release for over 90 days, as soon as possible. As long as the work is registered before actual infringement, the enhanced remedies of federal copyright registration apply.

Submission Options

First & Last 25 Source

First 25 and last 25 pages of source code with portions containing trade secrets blocked out

First & Last 10 Source

First 10 and last 10 pages of source code alone, with no blocked out portions

Object + Source

First 25 and last 25 pages of object code plus any 10 or more consecutive pages of source code, with no blockedout portions

Entire Source

For programs 50 pages or less in length, entire source code with trade secret portions blocked out

Smith & Hopen, P.A.
U.S. Registered Patent Attorneys

Works Excluded

Copyright protection is not available for ideas, program logic, algorithms, systems, methods, concepts, or layouts.

$$E = mc^2$$

Such functional aspects of computer programs may be protectable under the patent system, but not copyright.

Benefits of Registering Software

Public Record

Registration establishes a public record of the copyright claim and before an infringement suit may be filed in court, registration is necessary for works of U. S. origin.

Presumption of Validity

If made before or within 5 years of publication, registration will establish prima facie evidence in court of the validity of the copyright and of the facts stated in the certificate.

Enhanced Damages

If registration is made within 3 months after publication of the work or prior to an infringement of the work, statutory damages and attorney's fees will be available to the copyright owner in court actions. Otherwise, only an award of actual damages and profits is available to the copyright owner.

U.S. Customs Service

Registration allows the owner of the copyright to record the registration with the U. S. Customs Service for protection against the importation of infringing copies.

Term of Protection

Lesser of: 95 years from publication date or 120 years from creation if a work made for hire.

If created by individual (not for company) then life of the individual + 70 years.

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