

Copyright Registration of Websites and Website Content

The Copyright Act does not explicitly recognize websites as a type of copyrightable subject matter. However, you may be able to register a website or a specific web page if it satisfies certain statutory requirements. This circular focuses on registration issues involving websites and website content. It covers

- How to identify the author of a website
- How to identify copyrightable content on a website
- What “publication” means in the context of a website
- What to submit as a deposit with a website registration

For registration purposes, a website is a web page or set of interconnected web pages, including a home page, located on the same computer or server and prepared and maintained as a collection of information by a person, group, or organization. Although a website may contain text, artwork, photographs, music, videos, or other copyrightable content, the website itself is not typically considered a copyrightable work. However, you may be able to register a website or a specific web page if it satisfies the statutory requirements for a compilation or collective work.

Websites differ from databases and computer programs for the purposes of registration. A database is a compilation of digital information, accessible solely by an information retrieval program. A computer program is a set of statements or instructions to be used directly or indirectly in a computer to bring about a certain result.

This circular provides information about registering websites and website content with the U.S. Copyright Office.¹ For specific information about this topic, see [chapter 1000](#) of the *Compendium of U.S. Copyright Office Practices*. For information about registration of computer programs, see *Copyright Registration of Computer Programs (Circular 61)*. For more information about registration of databases, see [chapter 700](#), section 727 of the *Compendium*.

Copyright Registration

An application for copyright registration contains three essential elements: a completed application form, a nonrefundable filing fee, and a nonreturnable deposit—that is, a copy or copies of the work being registered and “deposited” with the Copyright Office. *Copyright Registration (Circular 2)* contains general information about submitting a registration including details about what to expect after you file and the effective date of registration. When you complete an application, you will be asked to identify the author of the

work, the type of copyrightable authorship that you want to register, and the owner of copyright. These topics are discussed in more detail below.

As a general rule, you must submit a separate application, filing fee, and deposit for each work that you want to register. However, the Office has established exceptions for certain types of works that allow you to register multiple works with one application. For more information, see *Multiple Works* (**Circular 34**).

The Copyright Office strongly encourages you to submit a claim before you distribute your work to the public.

NOTE: Copyright Office fees are subject to change. For current fees, see *Copyright Office Fees* (**Circular 4**) available on the Office’s website at www.copyright.gov or call the office at (202) 707-3000 or 1-877-476-0778 (toll free).

Copyrightable Content on a Website

To register a website or website content, you must identify the copyrightable authorship you will submit for registration. Copyrightable authorship is original expression contributed by an author that contains at least a minimum amount of creativity.

As with any other work, the Office will refuse registration for any website or website content that does not constitute copyrightable subject matter or any content that lacks sufficient authorship. Common examples of uncopyrightable material particular to websites include ideas or plans for future websites; functional design elements; domain names or URLs; the layout, format, or “look and feel” of a web page; or other common, unoriginal material such as names, icons, or familiar symbols.

Website Content

Websites usually contain multiple forms of content such as text, photographs, illustrations, and other two-dimensional artwork. They may also contain other forms of content such as music, sound recordings, and videos or other audiovisual works.

An individual work that appears on a website can be registered if it constitutes copyrightable subject matter and contains a sufficient amount of original authorship. It should be registered according to the predominant copyrightable content. For example, if you want to protect a blog post consisting mainly of text, you can register the blog entry as a literary work. If you want to protect a musical work that is available on a website, you can register it as a work of the performing arts. Likewise, a photographer who displays or distributes her photographs on a website can register these images as visual art works. In other words, works that are located on a website are registered in much the same way as any other work, and the Office applies the same rules when examining them.

As a general rule, you should submit a separate application for each component work appearing on the website, although it is possible to register multiple works on one application if they qualify for one of the Office’s special registration accommodations. For example, if the works on a website are of the same type and are unpublished, you may be able to register them using the group registration of unpublished works option. For more information, see *Multiple Works* (**Circular 34**). If the website contains a number of photographs, you may be able to register them using the group option for published or unpublished photographs. For more information, see *Copyright Registration of Photographs* (**Circular 42**). As discussed below, it may also be possible to register a website together with the works contained on it if the site qualifies as a collective work, regardless of whether the works are published or unpublished.

Website as a Whole

A website is not explicitly recognized as a type of copyrightable subject matter under the Copyright Act. Therefore, you should not list “website” as the type of authorship that you will submit with your copyright application. You, may, however, be able to register a website or a specific web page if it satisfies the statutory requirements for a compilation or collective work.

You can register a website as a compilation or a collective work if there is a sufficient amount of creative expression in the selection, coordination, or arrangement of the content appearing on the individual web pages or the website as a whole. Likewise, a website may qualify as a compilation or a collective work if there is sufficient creativity in the overall hierarchy of the website, such as the ways in which the pages are connected or linked with one another.

When you register a website as a compilation or a collective work, the registration may cover both the website as a whole and the individual works that appear on the site—but only if the claimant fully owns the copyrights in both the compilation and the underlying works at the time of registration. For more information about compilation and collective work authorship, see *Multiple Works* (**Circular 34**).

A claim in a compilation or a collective work extends only to the specific elements provided in the deposit that the claimant fully owns. It does not cover previous or subsequent iterations of the same website. Likewise, it does not cover the general layout or format of a web page or other elements arranged in the same or a similar way. For this reason, the Office generally will refuse claims consisting solely of style sheet languages, such as Cascading Style Sheets.

HTML

Hypertext markup language (HTML) is a standard markup language used in the design of websites. It is frequently generated by automated website design software. HTML establishes the format and layout of the content that appears on a particular web page by instructing the user’s browser to present that content in a specified manner.

If you want to register content that has been posted on a website, you should submit the content in the form in which it appears on the actual website. There is no reason to submit the HTML code for that site unless you specifically want to register the human-written portions of the HTML itself and any website text that is embedded within the HTML. A registration for HTML will not cover any formatting and layout that may be dictated by the HTML or style sheets. Nor will it cover any audio, visual, or audiovisual content that may appear on a website and is not perceptible in the HTML. HTML may be registered as a literary work only if it was created by a human being and it contains a sufficient amount of creative expression.

Author of a Website and Its Content

To register a work with the Copyright Office, you must identify the author or authors of the work. In addition, you must identify the party that owns the copyright in the work. Many websites contain multiple types of copyrightable content. Identifying the author and copyright owner of that content is an important step in seeking a registration.

Generally, when an individual creates a work he or she is considered the author of that work for copyright purposes. If two or more authors create a work, they may be considered joint authors, and their work may be considered a joint work. For more information on joint authorship, see **chapter 500**, sections 505 through 505.2, of the *Compendium*.

If a third party hires an individual as an independent contractor to develop a website or content for a website, the contractor is considered the author and copyright owner of the work, not the hiring party. In such a case, the hiring party would have to acquire all the exclusive rights in the work through a signed written agreement with the contractor to assert a claim to copyright in the contractor's work. By contrast, if an individual creates a work during the course of his or her employment under a typical employment relationship, the work is considered a work made for hire, and the employer is considered the author and copyright owner of that work, not the employee. For more information, see **chapter 500**, sections 506 of the *Compendium*.

Many websites also contain third-party content. This type of content typically belongs to the author of the content unless there is a valid written and signed transfer of ownership of all rights. One type of third-party content common to websites is user-generated content, the ownership of which may be transferred through terms of service. The Copyright Office will accept an application that asserts a claim in user-generated content as long as you identify the authors of that content and confirm that the copyright in that content has been transferred to the claimant named in the application. If the content was created by a large number of authors, the Office will accept an application that provides a representative number of author names and the number of additional authors who contributed to the content.

NOTE: You must exclude any authorship that is not fully owned by you from your application. In particular, a claim in an entire website does not extend to externally linked content.

Common Registration Issues

This section discusses some common issues that you should consider when seeking to register a website or website content.

Publication

The fact that a work has been placed online or posted on a website does not necessarily mean that the work has been published. The Office considers a work published when copies of it are distributed to the public by sale or other transfer of ownership if the copyright owner authorizes the end user to retain copies of the work. Merely displaying or performing a work online generally does not constitute publication. However, a work is considered published when the copyright owner offers to distribute copies of the work to a group of people for the purpose of further distributing the copies or publicly performing or displaying the work.

The key element of publication for an online work is that the copyright owner must authorize distribution. Just because an end user can technically reproduce a work does not necessarily mean that the work has been published. A copyright owner must have expressly or implicitly authorized users to make retainable copies of a work by downloading, printing, or other means for the work to be considered published.

The concepts of authorization and publication can be complicated and may have serious consequences for the author or copyright owner. For this reason, the Office generally lets the applicant decide whether a particular work is published or unpublished. In making this determination, you may wish to consider the following general guidelines.

- *Work made available only by streaming.* Streaming is a performance, which, in and of itself, does not constitute publication, because, as a practical matter, the end user does not retain a copy of the work when the performance ends.
- *Work for which downloading or reproduction is expressly prohibited.* If there is a notice on a website in the terms of service for the site or another obvious place indicating that a work or the content on the site cannot be downloaded, printed, or copied, the work or content may be deemed unpublished, because the end user is not authorized to download, print, or otherwise distribute copies.
- *Work posted without the authority of the copyright owner.* The fact that a work was posted on a website without authorization does not constitute publication, even if the work can be downloaded or printed from that site, because the copyright owner did not authorize the end user to retain copies of the work.
- *Work for which downloading is expressly authorized.* If a work is expressly made available for download, such as when users can click on a “Download Now” button or similar link to obtain copies, the work has been published. However, this authorization may be limited to particular works and does not necessarily extend to the website as a whole.
- *Work made available in electronic and physical format.* If the same work is posted online and distributed in tangible copies, such as CDs, DVDs, or printed formats, the work is considered published, even if it has not been posted online in a manner that would constitute publication.
- *Work made available through an implied license.* It may be unclear whether the copyright owner authorized the public to retain copies of the work if a work is posted on a website and there is no evident statement in the terms of service for the site—on the web page where the work is displayed or elsewhere—stating that the work can be downloaded, copied, forwarded, shared, or printed. If the website assists the end user in some manner in downloading, reproducing, or retransmitting the content of the site, there may be an implied license to distribute copies of the work, in which case the work would be considered published.

For additional guidance in determining whether a particular work has been published, see [chapter 1000](#), section 1008.3, of the *Compendium*.

Derivative Versions

Most websites are updated often and change significantly over time. Generally, each new version of a website is considered a separate work for purposes of registration.

A registration for a specific version of a website covers the new material that the author contributed to that version, including any changes, revisions, additions, or other modifications that the author made to that version. Ordinarily, the registration does not cover earlier or later versions of the same website or preexisting material that may be contained within that site.

In particular, a registration for a specific version of a website does not cover:

- Previously published material;
- Previously registered material;
- Material that is in the public domain; or
- Copyrightable material owned by a third party.

There is a limited exception to this rule. A registration may cover both new material and preexisting material if the preexisting material has never been published or registered before and if the claimant owns the copyright in both the new and the preexisting material.

Whether the additions or alterations to a website and its content are published or unpublished is central to determining what you can register and what you need to exclude from your claim. If the website and its content have been published, you generally should limit your claim to the new content that appeared on the website on a single date, and you should file separate applications for any other date on which newly published material was added to the website. By contrast, if the new content is unpublished, you may be able to register that content using the group registration option for unpublished works, even if the content was added to the website on different dates.

Deposit Requirements

The deposit requirements for websites and website content are generally the same as for any other work. If the work is unpublished or if it has been published solely online, you must submit a complete copy of the work. For example, if you want to register an entire website, you must submit all of the pages as they actually appear on the site, regardless of volume. If you want to register an individual work that appears on the website, the deposit must depict the work in the context in which it appears on the website or web page. In other words, the deposit should show how the content would be perceived when a user accesses that content online. A claim in an entire website does not extend to any content that cannot be viewed in the deposit copy, such as audio or audiovisual works that may be embedded within the website.

Currently, PDF format is the preferred means for submitting deposits of websites and website content. A PDF package can be used to fix an entire website and maintain the organization and navigation of the site. If the work has been published, you should make sure that the content of the deposit matches the date of publication specified in your application.

The Office will not accept a link to a website or other online sources. You should not submit separate files or folders containing unassembled content or content that has been disassociated from the website or web page where it originally appeared. As mentioned above, you do not have to submit the HTML for a website unless you specifically want to register the human-written portions of the HTML itself and any website text that is embedded within the HTML.

The mandatory deposit requirement generally does not apply to works published in the United States that are only available online. However, there is a limited exception to this rule for electronic serials that have been expressly demanded by the Copyright Office. For a definition of “electronic serial” and information concerning the mandatory deposit requirements for such works, see *Mandatory Deposit of Copies or Phonorecords for the Library of Congress* (**Circular 7D**).

NOTE

1. This circular is intended as an overview of registering website content with the Copyright Office. The authoritative source for U.S. copyright law is the Copyright Act, codified in Title 17 of the *United States Code*. Copyright Office regulations are codified in Title 37 of the *Code of Federal Regulations*. Copyright Office practices and procedures are summarized in the third edition of the *Compendium of U.S. Copyright Office Practices*, cited as the *Compendium*. The copyright law, regulations, and the *Compendium* are available on the Copyright Office website at www.copyright.gov.

For Further Information

By Internet

The copyright law, the *Compendium*, electronic registration, application forms, regulations, and related materials are available on the Copyright Office website at www.copyright.gov.

By Email

To send an email inquiry, click the *Contact Us* link on the Copyright Office website.

By Telephone

For general information, call the Copyright Public Information Office at (202) 707-3000 or 1-877-476-0778 (toll free). Staff members are on duty from 8:30 am to 5:00 pm, eastern time, Monday through Friday, except federal holidays. To request application forms or circulars by postal mail, call (202) 707-9100 or 1-877-476-0778 and leave a recorded message.

By Regular Mail

Write to

Library of Congress
U.S. Copyright Office
Publications Section
101 Independence Avenue, SE #6304
Washington, DC 20559-6304

