

(d) *Works excluded.* Works which are not copyrightable subject matter under title 17 of the U.S. Code, other than sound recordings fixed before February 15, 1972, shall not be registered as restored copyrights.

[60 FR 50422, Sept. 29, 1995, as amended at 64 FR 12902, Mar. 16, 1999; 64 FR 29522, June 1, 1999; 71 FR 31092, June 1, 2006; 72 FR 36888, July 6, 2007; 73 FR 37839, July 2, 2008]

§§ 202.13–202.15 [Reserved]

§ 202.16 Preregistration of copyrights.

(a) *General.* This section prescribes rules pertaining to the preregistration of copyright claims in works eligible for preregistration under Section 408(f) of 17 U.S.C.

(b) *Definitions.* For the purposes of this section—

(1) A work is in a *class of works that the Register of Copyrights has determined has had a history of infringement prior to authorized commercial release* if it falls within one of the following classes of works:

- (i) Motion pictures;
- (ii) Sound recordings;
- (iii) Musical compositions;
- (iv) Literary works being prepared for publication in book form;
- (v) Computer programs (including videogames); or
- (vi) Advertising or marketing photographs.

(2) A work is *being prepared for commercial distribution* if:

- (i) The claimant, in a statement certified by the authorized preregistering party, has a reasonable expectation that the work will be commercially distributed to the public; and
- (ii) Preparation of the work has commenced and at least some portion of the work has been fixed in a tangible medium of expression, as follows:

(A) For a motion picture, filming of the motion picture must have commenced;

(B) For a sound recording, recording of the sounds must have commenced;

(C) For a musical composition, at least some of the musical composition must have been fixed either in the form of musical notation or in a copy or phonorecord embodying a performance of some or all of the work;

(D) For a literary work being prepared for publication in book form, the actual writing of the text of the work must have commenced;

(E) For a computer program, at least some of the computer code (either source code or object code) must have been fixed; and

(F) For an advertising or marketing photograph, the photograph (or, in the case of a group of photographs intended for simultaneous publication, at least one of the photographs) must have been taken.

(3) A work *eligible for preregistration* is a work that is:

- (i) Unpublished;
- (ii) Being prepared for commercial distribution; and
- (iii) In a class of works that the Register of Copyrights has determined has had a history of infringement prior to authorized commercial release.

(c) *Preregistration*—(1) *General.* A work eligible for preregistration may be preregistered by submitting an application and fee to the Copyright Office pursuant to the requirements set forth in this section.

(2) *Works excluded.* Works that are not copyrightable subject matter under title 17 of the U.S. Code may not be preregistered in the Copyright Office.

(3) *Application form.* An application for preregistration is made using Electronic Form PRE. The application must be submitted electronically on the Copyright Office website at: <http://www.copyright.gov>.

(4) *Preregistration as a single work.* For the purpose of preregistration on a single application and upon payment of a single preregistration fee, all copyrightable elements that are otherwise recognizable as self-contained works, that are to be included and first published in a single unit of publication, and in which the copyright claimant is the same, shall be considered a single work eligible for preregistration.

(5) *Fee*—(i) *Amount.* The filing fee for preregistration is prescribed in §201.3(c).

(ii) *Method of payment.* (A) Copyright Office deposit account. The Copyright Office maintains a system of Deposit Accounts for the convenience of those who frequently use its services and for