

§§ 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(i) Unpublished;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 those who file applications electronically. The system allows an individual or firm to establish a Deposit Account in the Copyright Office and to make advance deposits in that account. Deposit Account holders can charge preregistration fees against the balance in their accounts instead of using credit cards for each request of service. For information on Deposit Accounts, please download a copy of Circular 5, “How to Open and Maintain a Deposit Account in the Copyright Office,” or