

**PHOTOGRAPHY COPYRIGHT:  
A COLLECTION OF RIGHTS**

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What does it protect?	Expression
Rights conferred?	<p>Subject to exceptions, the Copyright Act grants five rights to a copyright owner:</p> <p>(1) <u>the right to reproduce</u> the copyrighted work;</p> <p>(2) <u>the right to prepare derivative works</u> based upon the work;</p> <p>(3) <u>the right to distribute copies</u> of the work to the public;</p> <p>(4) <u>the right to perform</u> the copyrighted work publicly; and</p> <p>(5) <u>the right to display</u> the copyrighted work publicly.</p>
Requirements for protection?	Original and creative, and fixed in a tangible medium of expression
How to obtain protection?	Automatic with use, registration to enforce
Time to obtain?	7-9 months
How long does protection last?	Life + 70 years, 95 or 120 years for work for hire
Filing cost?	\$35 regular for one photograph: \$55 for a collection; and \$800 to expedite

## What can be copyrighted?

An original idea fixed in a tangible medium of expression

## What constitutes an original idea?

There is a very low threshold to qualify as an “original idea” for copyright expression. A very small amount of creative expression is required. It must be at least a slight alteration and not a copy of something already existing.

## How is a copyright created?

As soon as an original idea is fixed in a tangible means of expression. It is created automatically when the individual creates the work. So, when a photograph with some creative expression is taken; the copyright is created instantly

## Why should I register my work if copyright protection is automatic?

Registration is recommended for a number of reasons. Many choose to register their works because they wish to have the facts of their copyright on the public record and have a certificate of registration. Registered works may be eligible for statutory damages and attorney's fees in successful litigation. Finally, if registration occurs within five years of publication, it is considered prima facie evidence in a court of law.

## Do you have to defend your copyright?

No, you cannot lose your copyright due it falling into common use. This is a distinction from trademarks where one is required to actively active the mark.

## Test for copyright infringement.

If the infringer had access to your work?

AND

Is the work substantially similar to your copyrighted work?

## Remedies for copyright infringement?

- Injunctions
- Money damages
- Actual damages and profits
- Statutory damages
- Cost's and attorney fees
- Criminal penalties

## What is Work Made for Hire?

- A work prepared by an employee within the scope of the employee's employment;
- A work specially ordered or commissioned in certain specified circumstances.
- Must use legal name, and not a pseudonym.

Works Made for Hire are considered to be owned/authored by the employer or the commissioning party. See Circular 30 (<https://www.copyright.gov/circs/circ09.pdf>).

## The Work and the Copy.

Ownership of a 'copy' of a photograph — the tangible embodiment of the 'work' — is distinct from the 'work' itself — the intangible intellectual property. The owner of the 'work' is generally the photographer or, in certain situations, the employer of the photographer. Even if a person hires a photographer to take pictures of a wedding, for example, the photographer will own the copyright in the photographs unless the copyright in the photographs is transferred, in writing and signed by the copyright owner, to another person. The subject of the photograph generally has nothing to do with the ownership of the copyright in the photograph.

The Copyright Act protects a variety of photographic works including photographs that are created with a camera and captured in a digital file or other visual medium such as film.

Works commonly registered in this category:

- Commercial
- Events
- Personal
- Scientific
- Portrait
- Documentary Photos
- Fine Arts
- Photojournalism
- Sports
- Editorial
- Forensic
- School
- Wedding

<https://www.copyright.gov/registration/photographs/index.html>

Application for copyright registration to the Copyright Office ("C.O.") must contain:

- Completed application form;

- Nonrefundable filing fee; AND
- Nonreturnable deposit of copy/copies of work being registered/deposited to the Copyright Office

<https://www.copyright.gov/fls/sl35.pdf>

Photography is under the Visual Arts (“VA”) Form, which could be done through online or paper application. (See Form VA)

Online Application is the preferred way to register for basic claims for VA works.

Advantages:

- Lower filing fee
  - \$35 for single author (sole claimant in a single work—not made for hire)
  - \$55 for all other online filings
- Fastest processing time
- Online status tracking
- Secure payment (credit/debit card, electronic check, or C.O. deposit account)
- Option to upload certain categories of deposits directly into eCO as electronic files
  - You may still submit hardcopy deposit when registering online

Paper Application

- Go to the [www.copyright.gov/forms/](http://www.copyright.gov/forms/) to access the C.O. forms
  - Forms could be requested by postal mail
- Click "Visual Form VA" (“Form VA”)
- Complete the Form VA
- Mail the Form VA form with check/money order and your deposit (work)
- Fee of \$85
  - “The higher fee compared with online registration reflects the higher labor cost to process claims submitted on paper.”

<https://www.copyright.gov/fls/sl35.pdf>

Applications that could only be done through paper application:

- Form CA for correction or amplification of information in a registration;
- Form D-VH for registration of vessel hull designs;
- Form MW for registration of mask works;
- Form GATT for registration of works in which the U.S. copyright was restored under the 1994 Uruguay Round Agreements Act;
- Form RE for renewal of copyright claims; and
- Forms for group submissions

## How Long Does Copyright Protection Last?

- Any work created after January 1, 1978: copyright protection lasts for the life of the author plus an additional 70 years
- Any anonymous work/a pseudonymous work/or work made for hire: copyright endures for a term of 95 years from the year of its first publication or a term of 120 years from the year of its creation, whichever expires first
- Any work published prior to 1978: Varies.
  - See Chapter 3 of the Copyright Act (Title 17 of the United States Code) or Circular 15a (Duration of Copyright) and Circular 1 (Copyright Basics).

<https://www.copyright.gov/help/faq/faq-duration.html>

## Do I Have to Renew my Copyright?

- No. Works created after January 1, 1978 does not need to be renewed.

<https://www.copyright.gov/help/faq/faq-duration.html>

## Copyright Office Contact Information

### **UNITED STATES COPYRIGHT OFFICE**

Library of Congress  
101 Independence Avenue SE  
Washington, DC 20559-6000

### **WEBSITE**

[www.copyright.gov](http://www.copyright.gov)

### **PUBLIC INFORMATION OFFICE**

Staff members are on duty to answer questions from 8:30 am to 5:00 pm, eastern time, Monday through Friday, except federal holidays. Recorded information is available twenty-four hours a day. Phone: (202) 707-3000 or 1-877-476-0778 (toll free).

### **FORMS AND PUBLICATIONS**

(202) 707-9100 or 1-877-476-0778 (toll free)

### **NEWSNET**

Subscribe to the Copyright Office electronic mailing list on the Copyright Office website at [www.copyright.gov](http://www.copyright.gov). Click on *News*.

### **BLOG**

Subscribe to the Copyright Office's blog Creativity at Work at <https://blogs.loc.gov/copyright/>.

## Estimated Value of Materials Transferred to the Library of Congress, Fiscal 2017

	Registered works transferred	Non-registered works transferred	Total works transferred	Average unit price	Value of works transferred
<b>Books<sup>1,2</sup></b>	<b>155,909</b>	<b>78,802</b>	<b>234,711</b>		<b>\$15,203,373</b>
Book-hardbound	56,342	21,808	78,150	\$98.96	\$7,733,724
Book-softbound	80,881	13,746	94,627	\$44.77	\$4,236,451
eBooks (ProQuest)	18,686	20,141	38,827	\$5.34	\$207,336
eBooks (special relief) <sup>5</sup>	0	23,107	23,107	\$130.95	\$3,025,862
<b>Serials<sup>1,3</sup></b>	<b>82,418</b>	<b>293,849</b>	<b>376,267</b>		<b>\$22,327,814</b>
Periodicals <sup>4</sup>	82,343	193,623	275,966	\$54.35	\$10,499,126
Newspapers <sup>1</sup>	75	20,880	20,955	\$1.50	\$22,003
eSerials <sup>5</sup>	0	79,346	79,346	\$148.80	\$11,806,685
<b>Microforms</b>	<b>3,962</b>	<b>3,646</b>	<b>7,608</b>		<b>\$1,141,200</b>
Microfilm	3,962	3,646	7,608	\$150.00	\$1,141,200
Microfiche	0	0	0	\$9.59	\$0
<b>Motion pictures</b>	<b>4,739</b>	<b>0</b>	<b>4,739</b>		<b>\$1,056,924</b>
Film—35mm/70mm/IMAX* <sup>1</sup>	36	0	36	\$13,460.26	\$484,569
Film—16mm	0	0	0	\$1,500.00	\$0
Videotape	4,703	0	4,703	\$121.70	\$572,355
<b>CD/DVDs</b>	<b>27,094</b>	<b>1,706</b>	<b>28,800</b>	<b>\$25.00</b>	<b>\$720,000</b>
Printed music	3,594	1,604	5,198	\$65.28	\$339,325
Maps	164	99	263	\$51.02	\$13,418
<b>Prints, posters, photographs, and works of art</b>	<b>385</b>	<b>74</b>	<b>459</b>	<b>\$41.47</b>	<b>\$19,035</b>
<b>Total</b>	<b>278,265</b>	<b>379,780</b>	<b>658,045</b>		<b>\$40,821,089</b>

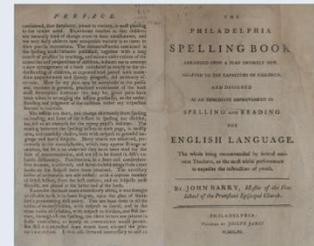
- As of 2010, categories were changed to match format codes in the Copyright Office's eCO system. "Newspapers" and "Film-35mm/70mm/IMAX" that year showed substantially fewer works than in previous years where an arithmetical calculation was used. Books and serials showed an increase, partly due to counting published "Dramas" under "Books," as well as increased productivity in that year.
- 60 percent of "Books" are selected for the collections; 40 percent are used for the Library's exchange program.
- In the "Serials" category, 70 percent of periodicals and newspapers are selected for the collections; 100 percent of e-series are selected.
- The figure for non-registered "Periodicals" includes: (1) an estimate based on average loads in hampers delivered to Library processing and custodial divisions and (2) a count of serials issues checked in through the Copyright Acquisitions Division. For the estimated portion, there was an earlier change in physical method of delivery, which decreased the average amount per hamper. The figures above reflect a reasonable estimate of current receipts per hamper and are periodically reviewed.
- Totals include certain e-books and e-series for which online access is negotiated with publishers for the Library of Congress under section 407.

## Non-fee Information Services to Public, Fiscal 2017

<b>Public Information and Education/ Public Records and Repositories Direct Reference Services</b>		
In person		2,448
By correspondence		6,709
By email		58,981
By telephone		80,108
<b>Total</b>		<b>148,246</b>
<b>Office of the General Counsel Direct Reference Services</b>		
By correspondence		34
By telephone		24
<b>Total</b>		<b>58</b>
<b>Receipt Analysis and Control Division Services</b>		
By correspondence		2,463
By email		15,797
By telephone		4,780
<b>Total</b>		<b>23,040</b>
<b>Licensing Division Direct Reference Services</b>		
By correspondence or email		1,745
By telephone		826
<b>Total</b>		<b>2,571</b>
<b>Acquisition Division Direct Reference Services</b>		
By correspondence or email		0
By telephone		20
<b>Total</b>		<b>20</b>
<b>eCO Service Help Desk</b>		
By email		15,342
By telephone		33,379
<b>Total</b>		<b>48,721</b>
<b>Grand Total Direct Reference Services</b>		<b>222,656</b>

## Copyright Registrations, 1790–2017

Date	Total	Date	Total	Date	Total	Date	Total
1790–1869	150,000 <sup>1</sup>	1901	93,299	1933	139,361	1965	293,617
1870	5,600	1902	93,891	1934	141,217	1966	286,866
1871	12,688	1903	99,122	1935	144,439	1967	294,406
1872	14,164	1904	104,431	1936	159,268	1968	303,451
1873	15,352	1905	114,747	1937	156,930	1969	301,258
1874	16,283	1906	118,799	1938	168,663	1970	316,466
1875	16,194	1907	124,814	1939	175,450	1971	329,696
1876	15,392	1908	120,657	1940	179,467	1972	344,574
1877	16,082	1909	121,141	1941	180,647	1973	353,648
1878	16,290	1910	109,309	1942	182,232	1974	372,832
1879	18,528	1911	115,955	1943	160,789	1975	401,274
1880	20,993	1912	121,824	1944	169,269	1976	410,969 <sup>2</sup>
1881	21,256	1913	120,413	1945	178,848	1976	108,762 <sup>2</sup>
1882	23,141	1914	124,213	1946	202,144	1977	452,702
1883	25,892	1915	116,276	1947	230,215	1978	331,942
1884	27,727	1916	117,202	1948	238,121	1979	429,004
1885	28,748	1917	112,561	1949	201,190	1980	464,743
1886	31,638	1918	107,436	1950	210,564	1981	471,178
1887	35,467	1919	113,771	1951	200,354	1982	468,149
1888	38,907	1920	127,342	1952	203,705	1983	488,256
1889	41,297	1921	136,765	1953	218,506	1984	502,628
1890	43,098	1922	140,734	1954	222,665	1985	540,081 <sup>3</sup>
1891	49,197	1923	151,087	1955	224,732	1986	561,208 <sup>3</sup>
1892	54,741	1924	164,710	1956	224,908	1987	582,239 <sup>3</sup>
1893	58,957	1925	167,863	1957	225,807	1988	565,801
1894	62,764	1926	180,179	1958	238,935	1989	619,543 <sup>4</sup>
1895	67,578	1927	186,856	1959	241,735	1990	643,602
1896	72,482	1928	196,715	1960	243,926	1991	663,684
1897	75,035	1929	164,666	1961	247,014	1992	606,253
1898	75,634	1930	175,125	1962	254,776	1993	604,894
1899	81,416	1931	167,107	1963	264,845	1994	530,332
1900	95,573	1932	153,710	1964	278,987	1995	609,195
							<b>Total 37,753,284</b>

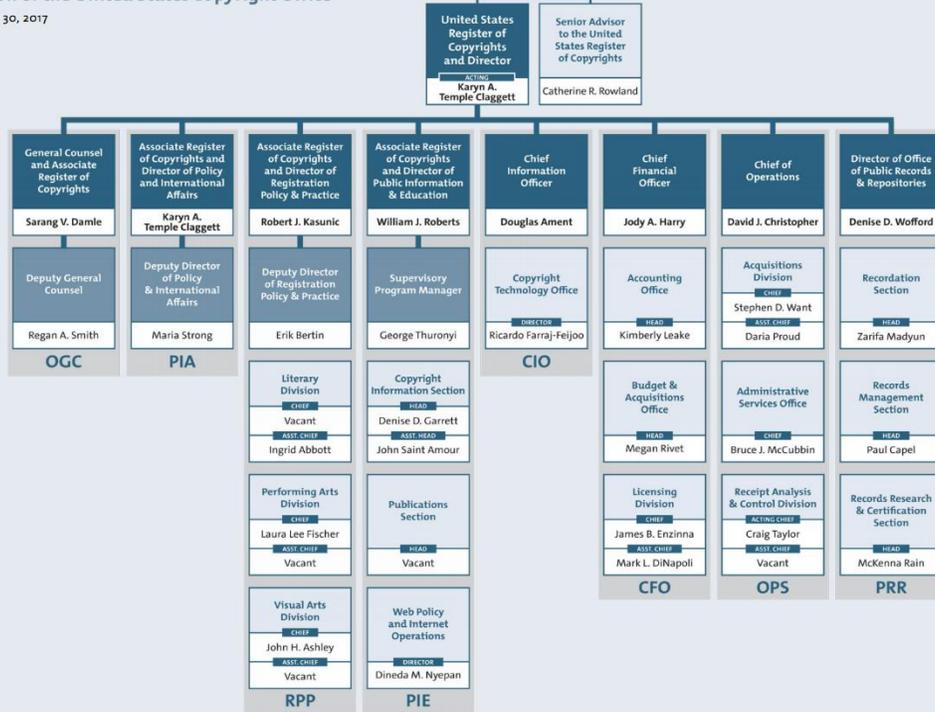


The first copyright registration, "The Philadelphia Spelling Book" by John Barry, is registered in the U.S. District Court of Pennsylvania.

- Estimated registrations made in the offices of the Clerks of the District Courts [Source: Pamphlet entitled *Records in the Copyright Office Deposited by the United States District Courts Covering the Period 1790–1970*, by Martin A. Roberts, Chief Assistant Librarian, Library of Congress, 1939].
- Registrations made July 1, 1976, through September 30, 1976, reported separately owing to the statutory change making the fiscal years run from October 1 through September 30 instead of July 1 through June 30.
- The totals for 1985–87 were corrected as of the fiscal 2004 annual report to include mask works registrations.
- The total for 1989 was corrected as of the fiscal 2004 annual report to be consistent with the fiscal 1989 table of "Number of Registrations by Subject Matter."
- Implementation of reengineering resulted in a larger than normal number of claims in process, temporarily reducing the total claims completed and registered.

## Organization of the United States Copyright Office

as of September 30, 2017



### Number of Registrations by Subject Matter, Fiscal 2017

Category of Material	Published	Unpublished	Total
Nondramatic literary works:			
<i>Monographs and computer-related works</i>	112,727	40,239	152,966
Serials:			
<i>Serials (nongroup)</i>	39,578	-	39,578
<i>Group daily newspapers/newsletters</i>	3,030	-	3,030
<i>Group serials</i>	6,902	-	6,902
<b>Total Literary Works</b>	<b>162,237</b>	<b>40,239</b>	<b>202,476</b>
Works of the performing arts, including musical works, dramatic works, choreography and pantomimes, and motion pictures and filmstrips	54,393	49,117	103,510
Works of the visual arts, including two-dimensional works of fine and graphic art, sculptural works, technical drawings and models, photographs, cartographic works, commercial prints and labels, and works of applied arts	51,717	34,749	86,466
Sound recordings	17,750	41,497	59,247
<b>Total Basic Registrations</b>	<b>286,097</b>	<b>165,602</b>	<b>451,699</b>
Renewals	396		396
Mask work registrations	27		27
Vessel design registrations	0		0
<b>Grand Total All Registrations</b>			<b>452,122</b>
Preregistrations			771
<b>Documents Recorded</b>			<b>14,644</b>

Financial information published in this table is unaudited.

### Fee Receipts and Interest, Fiscal 2017

Fees	Receipts Recorded <sup>1</sup>
Copyright registration	\$27,792,765
Registration special handling/expedited services	\$2,089,605
Vessel design registration	\$16,803
Renewal registration	\$13,210
Mask works registration	\$9,175
<b>Subtotal</b>	<b>\$29,921,558</b>
Notice of intention (17 USC 115)	\$3,313,894
Recordation of documents	\$2,438,591
Certifications	\$639,884
Recordation special handling/expedited services	\$430,490
Preregistrations	\$133,450
Designation of Agent (DMCA)	\$52,908
Other services and fees	\$49,328
Searches	\$27,954
Miscellaneous licensing fees	\$20,131
<b>Subtotal</b>	<b>\$7,106,630</b>
<b>Total Receipts Recorded</b>	<b>\$37,028,188</b>
Investment earnings	\$40,993
Reconciling transactions <sup>2</sup>	(\$18,944)
Refunds	(\$4,095)
<b>Fee Receipts and Interest Applied to the Appropriation<sup>3</sup></b>	<b>\$37,046,142</b>

<sup>1</sup> "Receipts Recorded" are fee and interest receipts entered into the Copyright Office's systems as offsetting collections of the Copyright Office Basic appropriation. Receipts recorded does not include fee or interest receipts from remitters required to file statements of account with the Office under the statutory licensing provisions of the Copyright Act or fees to participate in proceedings of the Copyright Royalty Judges.

<sup>2</sup> "Reconciling Transactions" include amounts pending association with an identified fee type, corrections, adjustments, and pending deposit account corrections.

<sup>3</sup> "Fee Receipts and Interest Applied to the Appropriation" are income from fees and deposit account interest that were fully cleared and deposited to the Copyright Office appropriation account within the fiscal year.

**Statutory Licensing Statement of Fiduciary Net Assets,  
Fiscal 2017**

	<i>(in thousands)</i>
Investments in U.S. Treasury securities, net	\$1,175,083
Fund Balance with Treasury	\$2,727
Interest receivable	\$68
Accrued liabilities	(\$119)
<b>Total Fiduciary Net Assets</b>	<b>\$1,177,759</b>

**Statutory Licensing Statement of Fiduciary Activity,  
Fiscal 2017**

	<i>(in thousands)</i>
<b>Beginning Fiduciary Net Assets</b>	<b>\$1,103,819</b>
Royalty Fees Received	\$217,838
Investment Earnings	\$7,197
<b>Total Inflows to Fiduciary Net Assets</b>	<b>\$225,035</b>
Distributions to copyright owners	(\$148,642)
Refunds of royalty fees	(\$407)
Net royalty fees retained for administrative costs	(\$2,046)
<b>Total Outflows from Fiduciary Net Assets</b>	<b>(\$151,095)</b>
Increase in Fiduciary Net Assets	\$73,940
<b>Ending Fiduciary Net Assets</b>	<b>\$1,177,759</b>

**Statutory Licensing Filing and Royalty Fees Collected and  
Offset for Administrative Costs, Fiscal 2017**

	<i>(in thousands)</i>	<i>(in thousands)</i>	<i>(in thousands)</i>
	<i>Total</i>	<i>Licensing Division</i>	<i>Copyright Royalty Judges</i>
Filing Fees	\$2,054	\$2,053	\$1
License filing year 2017 royalty fees	\$2,375	\$2,078	\$297
License filing year 2016 royalty fees	\$1,500	\$1,400	\$100
<b>Total</b>	<b>\$5,929</b>	<b>\$5,531</b>	<b>\$398</b>

**Statutory Licensing Net Royalty Fees Retained for  
Administrative Costs, Fiscal 2017**

	<i>(in thousands)</i>	<i>(in thousands)</i>	<i>(in thousands)</i>
	<i>Total</i>	<i>Licensing Division</i>	<i>Copyright Royalty Judges</i>
2017 Royalty fees retained	\$2,375	\$2,078	\$297
2016 Royalty fees retained	\$1,500	\$1,400	\$100
2016 Royalty fees refunded	(\$1,425)	(\$1,400)	(\$25)
2015 Royalty fees refunded	(\$390)	(\$390)	-
2012 Royalty fees refunded	(\$14)	(\$14)	-
<b>Total</b>	<b>\$2,046</b>	<b>\$1,674</b>	<b>\$372</b>

REGISTRATION & RECORDATION

COPYRIGHT REGISTRATIONS BY SUBJECT MATTER



**202,476**  
Total Literary Works



**103,510**  
Total Performing Arts Works



**86,466**  
Total Visual Arts Works

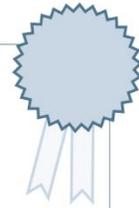


**59,247**  
Total Sound Recordings

**452,122**

**Total Copyright Registrations**

including Renewals, mask work and vessel design registrations



## STATUTORY LICENSING ROYALTIES BY THE NUMBERS

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In Fiscal 2017, the Copyright  
Office collected almost

**\$220 million**

in royalties from users of  
copyright statutory licenses.

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The Copyright Office continued  
to manage over

**one billion**

in statutory licensing royalties.

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The Copyright Office made four  
separate distributions totaling

**\$148.6 million**

collected in previous years.

\$29.9

receipts from  
copyright  
registration

*(in millions)*

\$2.4

receipts from  
document  
recordation

*(in millions)*

\$220

royalty fees  
collected

*(in millions)*