



COPYRIGHT REGISTRATION AND DATE CERTIFICATION SERVICES- WHAT'S THE SCOOP?

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A number of copyright registration "services" and creation "date certification services" have sprung up around the US and online, seeking to make money off of artists, photographers and writers who are either naïve or misinformed about the process of copyrighting their own work. These entrepreneurial services offer creators "registration" of the date of creation of their work within their company's databank in lieu of actual copyright registration with the US Copyright Office, a "professional service" that will register your work with the US Copyright Office for you, and in some cases both. They feed into and prey upon the intimidation and misinformation of what copyright registration actually entails, and that copyright registration is too difficult, complicated, time consuming or confusing for us creative types to do on our own without the aid of an attorney or some other sort of "professional."

Copyright is simple. According to US Copyright Law, a Creator inherently owns the copyright to his/her original work (visual, written, or musical) the instant they create it. And the Creator owns the copyright to their original work until they give it or sell it to someone else. Examples of giving or selling your copyright to someone else would be creating your work for someone else under a work-for-hire agreement, creating work assigned to you by a business while you are their full-time staff employee, creating work for a client under an "all rights" agreement, or selling or licensing use of your copyrighted work to someone else.

Copyright infringement occurs when someone (an individual or business) uses your work without your explicit, written permission to do so and without paying you for using it [that is, as long as you still retain the copyright to your work and you have not signed it away to someone else].

The only way to register your copyright for a particular work is to actually file a copyright registration form (submitted with a sample copy of the work you are registering) with the US Copyright Office in Washington DC. Copyright forms and instructions are available free from the Copyright Office www.copyright.gov/ (202) 707-3000. The fee for registration of a visual work is \$30 [Form VA]. The Copyright Office will send you a date-stamped certificate of registration for your records.

If your work is infringed, you may sue the infringer for copyright infringement in civil court. However, you are only legally entitled to recoup your legal costs and statutory damages from the infringer if you have registered the copyright for your work with the US Copyright Office. Even if you are able to prove that you are the original Creator of the work (and the infringer isn't) and that you created the work before the infringer had it in their possession and used it (and/or claimed that they are the Creator or copyright owner), if you have not registered your work with the

US Copyright Office you are not legally entitled to recoup the legal costs of your suit and statutory damages from the infringer. If your work is not registered, even if you win your infringement suit, you will have to pay all legal costs yourself and your "win" may likely only result in a cease & desist order (i.e. to stop using your work). For this reason, it is typically financially not feasible for an artist to sue an infringer if their work is not registered, and the infringer gets away with it.

This is the big difference. This is why "registering" your work or "certifying" the date of creation of your work with any service or databank other than the US Copyright Office is pointless and not legitimate copyright registration. Let me be clear: registering your work with some "service," private company, or database other than the US Copyright Office is not copyright registration and provides you absolutely no legal protection or advantage. Do not be fooled by the statements of some of these "services" that you only need to register with the US Copyright Office if you decide to sue an infringer after you have discovered an infringement or unauthorized use of your work. This is FALSE! US Copyright Law states

- *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.*

Please don't confuse these "services" or creation date "registration" databanks with date stamping or digital "watermarking" software utilities such as "Digimarc." "Digimarc" is not a copyright registration utility, nor does it claim to be. It is a software add-on that works within an application, such as Adobe Photoshop, that simply embeds coding of the date and your name in your image file when you create it. For an additional, annual fee the software company will continuously search postings on the Web for traces of your digitally tagged images, and notify you if it finds any. This is an excellent way of tagging your images with your identification, and is not intended to be copyright registration.

There are numerous "copyright registration services" provided by both attorneys and non-attorneys targeted at artists, photographers, writers, and musicians, for the purpose of registering the copyrights of our works for us. Their premise is that federal registration is too complicated- a difficult process full of legal mumbo jumbo- for us right-brained [*read stupid*] artistic types to figure out. For a fee significantly higher than the actual registration fee, they offer their professional service to fill in your name, address, date and title of your work on a simple 2-page fill-in-the-blank form for you, (that you can get for free from the Copyright Office and comes with instructions) and then take the sample copy of your work you provide to them and a check (for \$30 for a visual work) and put these in an envelope with a stamp on it and send it to the Copyright Office. Get the picture? All you need is a pen, your checkbook or a money order, and perhaps a trip to a photocopy shop, and then you could do this yourself at your dining table while you're eating dinner.

And I suggest that you send your registration form to the Copyright Office by certified, return receipt mail so that you have documentation of the date you sent in the registration. It may take 2-9 months for the Copyright Office to process your registration, and you'll need that proof that you mailed the registration should your work be infringed before you receive your certificate of registration. Easy enough.

There's lots more information about copyright in the Guild's [Handbook of Pricing and Ethical Guidelines](#). P. T. Barnum said it. "There's a sucker born every minute." Don't be a copyright sucker. Protect your rights. Copyright your work yourself.