GENERAL INFORMATION

ON

U.S. COPYRIGHT IN COMPUTER PROGRAMS

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U.S. COPYRIGHT PROTECTION IN COMPUTER PROGRAMS

DEFINITION

A 'computer program' is a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result.

EXTENT OF COPYRIGHT PROTECTION

Copyright protection extends to all of the copyrightable expression embodied in the computer program. Copyright protection is not available for ideas, program logic, algorithms, systems, methods, concepts, or layouts.

DEPOSIT REQUIREMENTS

I. Computer Programs Without Trade Secrets

For published or unpublished computer programs, send one copy of identifying portions of the program (first 25 and last 25 pages of source code), reproduced in a form visually perceptible without the aid of a machine or device, either on paper or in microform, together with the page or equivalent unit containing the copyright notice, if any.

For a program less than 50 pages in length, send a visually perceptible copy of the entire source code. For a revised version of a program which has been previously published, previously registered, or which is in the public domain, if the revisions occur throughout the entire program, send the page containing the copyright notice, if any, and the first 25 and last 25 pages of source code. If the revisions are not contained in the first and last 25 pages, send any 50 pages representative of the revised material in the new program, together with the page or equivalent unit containing the copyright notice for the revised version, if any.

Where an applicant is unable or unwilling to deposit source code, he/she must state in writing that the work as deposited in object code contains copyrightable authorship. The Office will send a letter stating that registration has been made under its rule of doubt and warning that it has not determined the existence of copyrightable authorship.

If a published user's manual (or other printed documentation) accompanies the computer program, deposit one copy of the user's manual along with one copy of the identifying portion of the program.

For HyperCard computer programs created in scripted language, the script is considered the equivalent of source code. Thus the same number of pages of script would be required as is required for source code. Reproductions of

on-screen text, buttons, and commands are not an appropriate substitute for this source code deposit. Where a HyperCard program contains trade secrets, deposit script pages meeting the requirements of part II below.

II. Computer Programs Containing Trade Secrets

Where a computer program contains trade secret material, a claim may be made a cover letter stating that the claim contains trade secrets, along with the page containing the copyright notice, if any, plus one of the following:

A. Entirely new computer programs:

1) 50 consecutive pages of source code, with no blocked-out portions; or

2) or programs 50 pages or less in length, entire source code with trade secret portions blocked out.

B. Revised computer programs:

1) if the revisions are present in the first and last 25 pages, any one of the 2 options above, as appropriate; or

2) if the revisions are not present in the first and the last 25 pages:

3) 20 pages of source code containing the revisions with no blocked out portions, or

4) any 50 pages of source code containing the revisions with some portions blocked out.

NOTE: Whenever portions of code are blocked out, the following requirements must be met:

(1) the blocked out portions must be proportionately less than the material remaining; and
(2) the visible portion must represent an appreciable amount of original computer code.

SCREEN

Copyright protection for computer screen displays has been an issue in the courts during the past few years, and questions were raised about separate registration for screen displays. Although some courts affirmed in several video-game cases that pictorial and graphic screen displays may be separately registered, other courts offered disparate opinions regarding screen displays.

After a public hearing on the subject and thorough review of public comments received about registration for screen displays, the Copyright Office announced its decision in June 1988 to require that all copyrightable expression embodied in a computer program owned by the same claimant, including computer screen displays, be registered on a single application form.

This decision also applies to videogame displays; these claims will be treated the same as other claims that include

authorship in a computer program and screen displays. A single registration will be made for the computer program and any related audiovisual authorship owned by the same claimant. Separate registrations will not be made.

The Copyright Office has consistently believed that a single registration is sufficient to protect the copyright in a computer program, including related screen displays, without a separate registration for screen displays or reference to the displays in the application. An application may give a general description in the "nature of authorship" space, such as "entire work" or "computer program." This description will cover any copyrightable authorship contained in the computer program and screen displays, regardless of whether identifying material for the screens is deposited.

Applicants who previously made a single registration for a computer program should be assured that the registration covers all the copyrightable content of the computer program. The Office will not make a new basic registration or a supplementary registration to allow a separate claim in the screen displays. Neither will the Office accept identifying material for the screens contained in any previously registered computer programs.

NOTICE OF COPYRIGHT

For works first published on and after March 1, 1989, use of the copyright notice is optional, though highly recommended. Before March 1, 1989, the use of the notice was mandatory on all published works, and any work first published before that date must bear a notice or risk loss of copyright protection.

Use of the notice is recommended because it informs the public that the work is protected by copyright, identifies the copyright owner, and shows the year of first publication. Furthermore, in the event that a work is infringed, if the work carries a proper notice, the court will not allow a defendant to claim "innocent infringement" - that is, that he or she did not realize that the work is protected. (A successful innocent infringement claim may result in a reduction in damages that the copyright owner would otherwise receive.)

The use of the copyright notice is the responsibility of the copyright owner and does not require advance permission from, or registration with, the Copyright Office.

FORM OF COPYRIGHT NOTICE FOR COPIES OTHER THAN PHONORECORDS

The notice for visually perceptible copies should contain all of the following three elements:

1. The copyright symbol (the letter C in a circle), or the word "Copyright," or the abbreviation "Copr."
2. The year of first publication of the work. In the case of compilations or derivative works incorporating previously published material, the year date of first publication of the compilation or derivative work is sufficient.

3. The name of the owner of copyright in the work, or an abbreviation by which the name can be recognized, or a generally known alternative designation of the owner.

LOCATION OF COPYRIGHT NOTICE FOR WORKS

REPRODUCED IN MACHINE-READABLE COPIES

For works reproduced in machine-readable copies (such as magnetic tapes or disks, punched cards, or the like), from which the work cannot ordinarily be visually perceived except with the aid of a machine or device, the following constitute examples of acceptable methods of affixation and position of notice:

(1) A notice embodied in the copies in machine-readable form in such a manner that on visually perceptible printouts it appears either with or near the title, or at the end of the work;

(2) A notice that is displayed at the user's terminal at sign on;

(3) A notice that is continuously on terminal display; or

(4) A legible notice reproduced durably, so as to withstand normal use, on a gummed or other label securely affixed to the copies or to a box, reel, cartridge, cassette, or other container used as a permanent receptacle for the copies.

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