

From the Desk of

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Overview of the Process For Seeking Registration of a Copyrighted Work

You have asked the MKG, LLC (“MKG”) to prepare a new application seeking registration of a copyrighted work to be filed on your behalf with the US Copyright Office at the Library of Congress.

Accordingly, we take this opportunity to explain what you can expect during the process for seeking registration including the preparation of the application, submission for examination and, hopefully, registration of your copyrighted work with the US Copyright Office. Please note that this document is intended to only give you a broad overview of the process and is **not** to be considered a recommendation or a quotation of costs for your particular situation. Additional information regarding this process may be found on the US Copyright Office’s website at www.copyright.gov.

Copyright protection can extend to any original works of authorship including literary works such as manuscripts, presentations, technical manuals, computer programs, website content and advertising brochures; pictorial, graphic, and sculptural works; motion pictures and other audiovisual works; sound recordings; and architectural works. Under US copyright law, the creator of an original expression in a work is its “author.” The author is also the owner of copyright unless there is a written agreement by which the author assigns the copyright to another person or entity. In cases of “works made for hire,” an employer or a commissioning party is considered to be the author. The terms “author” and “works made for hire” are defined by statute and it may be necessary to investigate circumstances surrounding the creation of the copyrighted work to determine if the statutory definitions apply.

Clients often seek counsel on copyright ownership issues including the assessment for and preparation of work for hire agreements, transfer of rights, licensing of rights to original works of authorship and recordation of such transfers and licenses. Regarding the securing of Copyright protection, MKG can also advise on the appropriate copyright category to secure protection and prepare and file applications with U.S. and foreign copyright offices.

It is sometimes necessary to protect these rights in federal court. MKG can initiate and defend copyright infringement cases at trial and on appeal on your behalf. In the successful resolution of such cases, not only is the infringing party stopped, but monetary damages such as actual damages and statutory damages have been awarded to our clients.

File A Copyright Application:

MKG estimates that we can prepare and file a new copyright application seeking registration of a work for a fixed fee of three hundred dollars (\$300.00 USD) per application, plus an about \$55 U.S. governmental filing fee. Our fee covers the work of an attorney and/or legal assistant in preparing and filing the application. The fee assumes that you have the requisite deposit requirement (copy of the work) in a form suitable for filing. If not, there may be an additional charge to place the work in a form acceptable to the US Copyright Office. If we see that the deposit requirement would be an issue, we will contact you with an estimated cost for preparing the deposit requirement and get your approval before under taking any work in this regard.

Prosecute a Copyright Application:

Once the application is received at the US Copyright Office, it is assigned to a Copyright Examination Specialist, who then conducts a substantive examination of the application including his/her own search through the US Copyright Office records of pending and registered works, suitability of the work for registration under US Copyright laws and Copyright Office regulations. If the Specialist initial determines that the application is somehow deficient, the Specialist may issue a Letter Action initially denying registration of the work. We will of course look to minimize these refusals by drafting an application that meets all US Copyright Office requirements. You should bear in mind however, that it is not uncommon that the Special may initially object to registration.

Upon receipt of a Letter Action from the Copyright Office, MKG will review the Letter Action and report its receipt to you with our recommendations for a response. Our recommendation will include an estimated cost for responding to the Letter Action including a highlight of amendments and/or arguments we believe will overcome the initial refusal. Depending on the extent of the Letter Action and deficiencies alleged by the Copyright Examination Specialist, the preparation of this reporting letter can cost anywhere from about three hundred to five hundred dollars (\$300.00 to \$500.00 USD), billed at our attorney's hourly rates. In order to continue with the prosecution of the copyright application, a response must be made to the Letter Action within a given time frame, or the application goes abandoned. As noted above, an estimated cost for responding to the Letter Action will be given with our recommendation for response to the Office Action. Generally speaking, MKG estimates that we can prepare and file a response to a US Copyright Office Letter Action initially refusing registration of your copyrighted work of about six hundred to eight hundred dollars (\$600.00 to \$800.00 USD) per response, plus any related expenses such as a computer-aided search for legal authority to support an argument in favor of registration, if necessary. Letter Actions, if any, are typically issued in about 10 to 14 months after an application has been filed and generally include requests for additional information or for a clarification of a claim being made. **Please recognize that the cost of prosecution is difficult to predict until the Copyright Office has issued a Letter Action denying registration. Therefore, we will discuss your options and our strategy for responding to any Letter Actions once issued, provide an estimated cost for preparing the response, and receive your approval before undertaking any work.**

Please note that under US law, there is no longer a process to “renew” a registered copyright. As a general rule, for works created after January 1, 1978, copyright protection lasts for the life of the author plus an additional 70 years. For an anonymous work, a pseudonymous work, or a work made for hire, the 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.

Transactional Work:

MKG also provides services for certain transactional matters such as, for example, drafting or reviewing documents such as, for example, a licensing agreement by which you can grant permission to others, or receive permission from others, to use or distribute a copyrighted work(s). Please note that the cost of such matters will be based on the actual time spent in reviewing and drafting the documents at our attorney and paralegal hourly rates.

As stated above, this document is intended only to provide a very broad overview of the process for seeking copyright protection for a work, as well as to give you, as an applicant, an idea of representative costs. Please bear in mind that the costs detailed above can vary significantly from application to application and as such are provided merely as guidance to future costs and not a guaranty. Please review this document and should you have any questions or concerns, do not hesitate to contact us, as we are always willing to discuss the particular details unique to your mark, the application and/or your uses.