

## Introduction to the Third Edition of the COMPENDIUM OF U.S. COPYRIGHT OFFICE PRACTICES

The *Compendium of U.S. Copyright Office Practices, Third Edition* (the “*Compendium*” or “*Third Edition*”) is the administrative manual of the Register of Copyrights concerning Title 17 of the United States Code and Chapter 37 of the Code of Federal Regulations. It provides instruction to agency staff regarding their statutory duties and provides expert guidance to copyright applicants, practitioners, scholars, the courts, and members of the general public regarding institutional practices and related principles of law. See [37 C.F.R. § 201.2\(b\)\(7\)](#).

### **Effective Date of the *Third Edition***

The *Compendium, Third Edition* was released and became effective on December 22, 2014.

The *Compendium, Third Edition* is a living, electronic document accessible on the official website of the U.S. Copyright Office. The Office publishes regular revisions, as appropriate, to reflect changes in the law and/or practices, which customers may access, download, or print. The most recent update was released on September 29, 2017. The version posted on the Office’s website at any given time should be consulted as the current official version. The Office maintains an archive of all revisions so released, as well as prior versions.

### **Citing to the *Compendium***

The full title of this manual is the “*Compendium of U.S. Copyright Office Practices, Third Edition*.” The full title may be abbreviated as the “*Compendium*.” The manual may be cited as follows:

Full citation:

- U.S. COPYRIGHT OFFICE, COMPENDIUM OF U.S. COPYRIGHT OFFICE PRACTICES § 101 (3d ed. 2017).

Short form citation:

- COMPENDIUM (THIRD) § 101.1(A).

### **What the *Compendium* Covers**

The *Compendium* documents and explains the many technical requirements, regulations, and legal interpretations of the U.S. Copyright Office with a primary focus on the registration of copyright claims, documentation of copyright ownership, and recordation of copyright documents, including assignments and licenses. It describes the wide range of services that the Office provides for searching, accessing, and

retrieving information located in its extensive collection of copyright records and the associated fees for these services. The *Compendium* provides guidance regarding the contents and scope of particular registrations and records. And it seeks to educate applicants about a number of common mistakes, such as providing incorrect, ambiguous, or insufficient information, or making overbroad claims of authorship.

The *Compendium* does not cover every principle of copyright law or detail every aspect of the Office's administrative practices. The Office may, in exceptional circumstances, depart from its normal practices to ensure an outcome that is most appropriate.

### **Standard of Deference for the *Compendium***

The *Compendium* does not override any existing statute or regulation. The policies and practices set forth in the *Compendium* do not in themselves have the force and effect of law and are not binding upon the Register of Copyrights or U.S. Copyright Office staff. However, the *Compendium* does explain the legal rationale and determinations of the U.S. Copyright Office, where applicable, including circumstances where there is no controlling judicial authority.

The Supreme Court recognized that courts may consider the interpretations set forth in administrative manuals, policy statements, and similar materials "to the extent that those interpretations have 'the power to persuade.'" *Christensen v. Harris County*, 529 U.S. 576, 587 (2000) (internal citations omitted). "The weight of [the agency's] judgment in a particular case will depend upon the thoroughness evident in its consideration, the validity of its reasoning, its consistency with earlier and later pronouncements, and all those factors which give it power to persuade . . ." *Skidmore v. Swift & Co.*, 323 U.S. 134, 140 (1944).

Courts have cited the *Compendium* in numerous copyright cases. See, e.g., [\*Olem Shoe Corp. v. Washington Shoe Corp.\*, 2015 U.S. App. LEXIS 434, at \\*20-21 \(11th Cir. Jan 12, 2015\) \(finding that the \*Compendium's\* construction of the Copyright Act's requirements for disclaiming preexisting works during registration "merits deference"\)](#); [\*Alaska Stock, LLC v. Alaska Stock, LLC v. Houghton Mifflin Harcourt Publishing Co.\*, 747 F.3d 673, 684 \(9th Cir. 2014\) \(finding the \*Compendium\* "persuasive" concerning the registration requirements for databases\)](#); [\*Inhale, Inc. v. Starbuzz Tobacco, Inc.\*, 739 F.3d 446, 449 \(9th Cir. 2014\) \(finding the \*Compendium\* "persuasive" on the issue of conceptual separability\)](#); [\*Metropolitan Regional Information Systems, Inc. v. American Home Realty Network, Inc.\*, 888 F. Supp. 2d 691, 706-07 \(D. Md. 2012\) \(deferring to the \*Compendium\* concerning the registration requirements for collective works\)](#); [\*Rogers v. Better Business Bureau of Metropolitan Houston, Inc.\*, 887 F. Supp. 2d 722, 732 \(S.D. Tex. 2012\) \("The Copyright Office's 'policy statements, agency manuals, and enforcement guidelines' do not carry 'the force of law,' but they are entitled to some deference given the 'specialized experience and broader investigations and information' of the agency."\)](#); [\*McLaren v. Chico's FAS, Inc.\*, 2010 U.S. Dist. LEXIS 120185, at \\*\\*9-10 \(S.D.N.Y. Nov. 9, 2010\) \(concluding that the Office's interpretation of the unit of publication regulation "is particularly compelling"\)](#).

## Compendium Chapters

The *Compendium's* chapter scheme addresses the following key areas:

- Background on U.S. Copyright Office and general copyright law ([Chapter 100](#)).
- Overview of the registration process ([Chapter 200](#)).
- What is copyrightable ([Chapter 300](#)).
- Who may file an application for copyright registration, and distinguishing between applicants, claimants, and correspondents ([Chapter 400](#)).
- What may be or is covered by a registration and legal concepts relating to the authorship and ownership of joint works, works made for hire, derivative works, compilations, and collective works ([Chapter 500](#)).
- How to complete an application, including general categories of works and standards for examination ([Chapter 600](#)).
- Guidance regarding the copyrightability and registrability of literary works, works of the performing arts, and visual art works ([Chapters 700, 800, and 900](#)).
- Guidance regarding the copyrightability and registrability of websites and website content ([Chapter 1000](#)).
- When and how to register multiple works with one application, one filing fee, and one set of deposit copies ([Chapter 1100](#)).
- When and how to register mask works and vessel designs ([Chapters 1200 and 1300](#)).
- Types of applications and filing fees ([Chapter 1400](#)).
- Identifying and filing proper deposit copies for registration and mandatory deposit ([Chapter 1500](#)).
- Conditions for, benefits of, and processes for preregistration ([Chapter 1600](#)).
- How to request reconsideration of a refusal of a registration ([Chapter 1700](#)).
- How to modify a registration record, such as correcting or amplifying the information in a certificate of registration, cancelling a copyright registration, or asserting an adverse claim to copyright ([Chapter 1800](#)).
- Guidance on the meaning of publication and how to determine if a work is published ([Chapter 1900](#)).
- Registering a foreign work ([Chapter 2000](#)).

- How to seek a renewal registration for works first published or registered before January 1, 1978 ([Chapter 2100](#)).
- Copyright notice and the works that are subject to the notice requirement ([Chapter 2200](#)).
- Recording documents related to copyright ownership, notices of termination, and other documents that the Office records under Title 17 ([Chapter 2300](#)).
- Accessing and obtaining Office records and other Office services ([Chapter 2400](#)).

### First and Second Editions of the *Compendium*

The first edition of the *Compendium* (commonly referred to as “*Compendium I*”) governed the Office’s general practices for registration, recordation, and other matters arising under the Copyright Act of 1909. Largely an internal manual, it was directed to the Office’s examining staff. *Compendium I* was made available to the public for the first time in 1967 and it was last revised in 1973. See U.S. COPYRIGHT OFFICE, *Introduction to COMPENDIUM OF U.S. COPYRIGHT OFFICE PRACTICES* (1st ed. 1973); *Inspection and Copying of Records and Other Documents*, 32 Fed. Reg. 9314 (June 30, 1967).

The second edition of the *Compendium* (commonly referred to as “*Compendium II*”) was also designed for internal use. *Compendium II* reflects the Copyright Office’s general practices for registration, recordation, and other matters arising under the Copyright Act of 1976, prior to the adoption of the *Third Edition*. It was first published in 1984 and revised in part in 1988 and 1998. In 1988 the Office ~~added~~revised Chapter 600 (Registration Procedures) and ~~added~~ Chapter 1900 (Records, Indexes and Deposits). In 1995 the Office amended Chapter 600, § 606.04, which discussed the procedure for requesting reconsideration of a refusal to register. In 1998 the Office revised Chapter 1600 (Recordation of Transfers) and Chapter 1900 (Records, Indexes, and Deposits). See generally [Change in Procedure for Recording Certain Multiple Title Documents](#), 63 Fed. Reg. 23,475 (Apr. 29, 1998); [Compendium of Copyright Office Practices](#), 53 Fed. Reg. 20,392 (June 3, 1988); [Compendium of Copyright Office Practices](#), 49 Fed. Reg. 23,125 (June 4, 1984).

Although the Copyright Act of 1909 was repealed effective January 1, 1978, *Compendium II* did not supersede *Compendium I*. The preface to *Compendium II* expressly stated that *Compendium I* continued “to apply to Copyright Office actions, in situations . . . where the provisions of the Copyright Act of 1909, as amended, are dispositive.” U.S. COPYRIGHT OFFICE, *Preface to COMPENDIUM OF U.S. COPYRIGHT OFFICE PRACTICES* (2d ed. 1984). In other words, *Compendium I* remained the governing administrative manual for all registrations, renewals, and recordations issued by the Office prior to January 1, 1978. It also set forth the registration requirements for works published before January 1, 1978 where the applicant subsequently sought to register the work for the original copyright term (*i.e.*, the first twenty-eight years of the copyright), including issues involving copyright notice and the manufacturing clause.

*Compendiums I and II* are available on the Office's website. They are also available for inspection and copying in the Records, Research and Certification Section. See [37 C.F.R. § 201.2\(b\)\(7\)](#).

### **Relationship Between the First, Second, and Third Editions of the *Compendium***

*This version of the Third Edition governs registrations and recordations issued by the U.S. Copyright Office on or after September 29, 2017. Registrations and recordations issued between December 22, 2014 and September 29, 2017 are generally governed by the prior version of the Third Edition, except in cases where that version has been superseded by an amendment to the regulations, intervening case law, or previously announced changes in practice.*

To the extent there is a conflict between the *Third Edition* and ~~any prior version of the *Compendium*, including *Compendiums I* or *II*, or any prior version of the *Third Edition*~~, the current ~~official~~-version shall control. That said, The *Third Edition* does not comprehensively cover all ~~of the Office's U.S. Copyright Office~~ practices under the prior copyright law. To the extent that issues arise that are not addressed by the *Third Edition*, *Compendiums I* and *II* remain in effect and continue to be the governing administrative manuals for practices involving those issues.

In particular, the *Third Edition* generally does not address practices under the Copyright Act of 1909. *Compendium I* continues to be the controlling manual for registrations, renewals, and recordations issued by the Office prior to January 1, 1978, and for the registration requirements for works published before January 1, 1978 that were never registered for the original copyright term. For ease of reference, however, Chapter 2100 of the *Third Edition* summarizes most of the relevant practices from *Compendium I* concerning the registration and renewal of such works.

Similarly, the *Third Edition* does not address all practices involving provisions of the Copyright Act of 1976 that have been amended or repealed since 1978. As a general rule, *Compendium II* continues to be the relevant administrative manual for registrations, renewals, and recordations issued by the Office between January 1, 1978 and ~~December 22, 2014, the effective date of the *Third Edition*~~. In particular, Chapter 1200 of *Compendium II* continues to be the governing manual concerning the manufacturing clause, although that Chapter only applies to works published before June 30, 1986, which is the date that the manufacturing clause expired.

### **Using the *Compendium***

The U.S. Copyright Office makes the *Compendium* available in PDF format. The complete manual may be accessed or downloaded in its entirety or on a chapter-by-chapter basis. Each chapter can be accessed through the link set forth in the table of contents for the *Compendium* as a whole. Additionally, the *Compendium* includes a glossary of terms that are commonly used in registration and recordation practice. These terms are defined and linked throughout the chapters. Certain frequently used phrases are defined for convenience.

## How to Search the *Compendium*

You may search for specific terms in the *Compendium* by using the “find” features in Adobe Acrobat or Adobe Reader, or by using the search engine on the Office’s website. These features are described below.

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### Basic Searching with Adobe Acrobat or Adobe Reader

The “find” feature in Adobe Acrobat or Adobe Reader allows users to search for specific words or phrases within the entire *Compendium* or within specific chapters. To conduct a basic search, follow these steps:

#### *Step 1:*

- Select “Edit”Find from the ~~Edit pull-down menu in the~~ toolbar at the top of your screen, and then select “Find” from the drop-down menu. In the alternative, you may press Ctrl+ F to ~~activate~~activate the Find feature. A box labeled “Find” will appear on ~~the right side of~~ your screen.

#### *Step 2:*

- Enter the word or phrase you would like to find in the box labeled Find. To search for specific provisions of the Copyright Act, U.S. Copyright Office regulations, or the *Compendium*, enter the section number you would like to find, such as “409(1)” or “202.1.”

#### *Step 3:*

- Click the “previous” or “next” button. If the search term appears within the document it will be highlighted on your screen. If the search term appears elsewhere within the same document you may find it by clicking the “previous” or “next” buttons again. If the search term does not appear within the document the following message will appear: “Reader has finished searching the document. No matches were found.” To close the Find feature, click the “x” that appears in the upper right corner of that box.

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### Advanced Searching with Adobe Acrobat or Adobe Reader

Use the “advanced search” feature in Adobe Acrobat or Adobe Reader to identify all of the places where a specific word or phrase appears within the *Compendium* or within specific chapters. To conduct an advanced search, follow these steps:

#### *Step 1:*

- Save a copy of the entire *Compendium* or a specific chapter to your desktop.

#### *Step 2:*

- Open the document using Adobe Reader or Adobe Acrobat.

Step 3:

- Select “Edit” from the toolbar at the top of your screen and then select “Advanced search” from the drop-down menu. In the alternative, you may press Shift+Ctrl+ F to activate the advanced search feature. A box labeled “Search” will appear on the left side of your screen.

Step 4:

- Enter the word or phrase you would like to find in the box marked “What word or phrase would you like to search for?” To search for specific provisions of the Copyright Act, U.S. Copyright Office regulations, or the *Compendium*, enter the section number you would like to find, such as “409(1)” or “202.1.”

Step 5:

- Click the “Search” button. If the search term appears within the document, it will appear in a box labeled “Results,” along with a brief excerpt from each sentence where that term appears. If the search term does not appear within the document the following message will appear: “0 document(s) with 0 instance(s).” To conduct another search click the “New Search” button. To close the advanced search feature, click the “x” that appears in the upper right corner of the Search box.

**How to Provide Comments on the *Compendium***

The U.S. Copyright Office welcomes input on an ongoing basis regarding the *Compendium*. Comments may be emailed to the Office by using the form posted on the Office’s website at [copyright.gov/comp3/comments.html](http://copyright.gov/comp3/comments.html). In particular, the Office appreciates feedback on the readability, clarity, coverage, and usability of the *Compendium*. It also may consider well-developed observations regarding the Office’s practices themselves.