



**Professional Photographers of America's  
Comments Regarding Deposit Requirements for  
Registration of Automated Databases that  
Predominantly Consist of Photographs**

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On behalf of Professional Photographers of America (PPA), Commercial Photographers International, the Society of Sport & Event Photographers, the Student Photographic Society, Evidence Photographers International Council, and the Stock Artists Alliance we write to offer our thoughts on the proposed rules amendment allowing for the registration of automated databases that consist predominantly of photographs.

We thank the U.S. Copyright Office for establishing a testing period per the January 24, 2011 Federal Register notice (Docket Number RM 2010-6) that studies new registration options for photographic works via the eCO system. We are greatly encouraged by any effort made to increase the efficiency and opportunity for professional photographers to ensure their works are registered with the Copyright Office and therefore, protected to the fullest extent of the law.

#### **Registration of Automated Databases & Group Registration of Published Photographs**

The potential advantage of the submission of registration applications for databases of photographic works applications via the eCO option is greatly diminished by the inclusion of a requirement for individual image deposit. The interim regulation as proposed in the January, 28, 2011 Federal Register (Docket No. 2011-2) appears to create double the effort on the part of a professional photographer who has already devised an automated system for cataloguing their creative work.

As it stands, only a tiny fraction of photographers (1% according to PPA member surveys) currently elect to federally-register their work. One of the reasons frequently cited by photographers who elect not to register is the time consuming nature of the process. Photographers already working over 40 hours per week simply refuse to take the time away from day-to-day operations, their clients, and also their families, to navigate the complexities of copyright registration.

The opportunity to organize their images into a single unit eligible for registration should entice photographers to register. Unfortunately, the required deposit of a sizeable amount of images that still applies to this registration option creates little incentive for a photographer to ensure their work is fully-protected under the law. As a result, the photographer wishing to register a database of their images would be equally served following the existing process for registering groups of either published or unpublished work.

If the individual deposit of photographs requirement rule is implemented, the only advantage created by registering via the eCO option, as per this pilot program, is to ensure a faster processing time when comparison to a paper submission. As such it is our hope the Office will reconsider the individual image deposit requirement and instead elect to accept the database as a single unit in addition to the basic information relating to such a compilation.

We do find the opportunity for photographers to register groups of published images via the eCO platform a welcome change from the paper Form Gr/Pph/CON required in supplement to Form VA. Giving photographers registering their published works via the electronic method will ensure they receive their Certificates of Registration in a more timely manner and represents savings to the copyright owners by not only reducing the registration fee but, also the amount of time they would need to dedicate to completing the paper forms.

#### **“Published” vs. “Unpublished”**

The question of group registration of published photographs once again raises the concerns we have regarding the definitions of terms “published” and “unpublished” as they apply to professional photographic works. The vast array of distribution methods created by digital photography has made determining “publication” more difficult for creators.

Our members regularly contact us seeking advice regarding the publication status of their works and who constitutes “the public”. These photographers often express fear that failure to correctly identify the publication status of the image(s) being registered will compromise their rights. As a result, any enthusiasm they might have had for registering their work disappears.

As the Office engages in the process of exploring changes to the registration regulations directly affecting photographic works, we would again ask that consideration be given to clarifying these definitions. For visual artists - and photographers more specifically, the distinction made between “published” and “unpublished” imagery is one that continues to create a barrier to registration.

Any guidance or rules adaptations the Copyright Office might explore with regard to these classifications, would be greatly appreciated by the photographic community. Additionally, we hope that we might provide you with additional comments in this area with the intent of making copyright registration more accessible to this class of visual artist.

In closing, PPA and its affiliated organizations appreciate this opportunity to offer our thoughts on the topic of registration and deposit of databases consisting primarily of photographs on behalf of our member photographers. We hope that you will take our comments into consideration prior to implementing these rule changes and look forward to engaging the Copyright Office in an open dialogue to further explore these changes.