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	# PAGES <small>(INCLUDING COVER)</small>	
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REGISTERING COMPUTER SOFTWARE

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The copyright protects the form of expression rather than the subject matter of the software program. For example, a description of your computer software could be copyrighted, but this would only prevent others from copying the description; it would not prevent others from writing a description of their own or from making and using the software. It is important to understand that Copyright does not protect names, titles, slogans, or short phrases, ideas, concepts, systems, or methods of doing something. In some cases, these things may be protected as trademarks. You may express your ideas in writing or drawings and claim copyright in your description, but be aware that copyright will not protect the idea itself as revealed in your written or artistic work. However, copyright protection may be available for artwork associated with the software that contains sufficient authorship. An idea or vision for a software program is not protected. Until your program has been written up, it is not protected. Copyright protects “original works of authorship” that are fixed in a tangible form of expression. The fixation need not be directly perceptible so long as it may be communicated with the aid of a machine or device.

The copyright in the work of authorship immediately becomes the property of the author who created the work. Only the author or those deriving their rights through the author can rightfully claim copyright. Copyright is a personal property right, subject to the various state laws and regulations that govern the ownership, inheritance, or transfer of personal property as well as terms of contracts or conduct of business.

If the software is created as part of a contract, it may constitute a “work for hire” under the Copyright law. The parties can expressly agree in a written agreement, signed by them, that the work shall be considered a work made for hire. The terms of your contract may determine who can claim copyright protection as the author. In order to retain any copyright protection or ownership rights, it is important for any contract to clearly establish all ownership rights or entitlements for any work or derivative work(s) created. The authors of a joint work are co-owners of the copyright in the work, unless there is an agreement to the contrary. In a work for

hire, the ownership rights may belong to the employer and not the employee; therefore, the employer could be considered the author.

A copyright may also be conveyed by operation of law and may be bequeathed by will or pass as personal property by the applicable laws of intestate succession. Transfers of copyright are normally made by contract. The law does provide for the recordation in the Copyright Office of transfers of copyright ownership and it does provide certain legal advantages thereby validating the transfer as against third parties.

WHAT ARE SOME BENEFITS OF REGISTERING MY SOFTWARE

The purpose of registering your copyright is to protect you against copyright infringement. Infringement is the unauthorized use of the software without express permission of you, the copyright owner. The protection is not absolute and there are limits of the rights protected under the 1976 Copyright Act. In addition, publication of a work can affect the limitations on the exclusive rights of the copyright owner.

The copyright law provides several inducements or advantages to encourage copyright owners to make registration. Among these advantages are that registration establishes a public record of the copyright claim. Registration is necessary for works of U. S. origin, if made before or within five years of publication. The registration will establish evidence in court of a valid copyright. If registration is made within three months after publication of the work or before an infringement of the work, statutory damages and attorney's fees will be available to the copyright owner in court actions. Finally, registration allows the owner of the copyright to record the registration with the U. S. Customs Service for protection against the importation of infringing copies. Most countries offer protection to foreign works under certain conditions. International copyright treaties and conventions have simplified these conditions.

For further clarification or information about the limitations of any of these rights, consult the copyright law, write to the Copyright Office, visit the Copyright Office website at <http://www.copyright.gov> or consult with an attorney.

DO I NEED TO INCLUDE A COPYRIGHT NOTICE IN MY SOFTWARE

The Copyright Notice informs the public that the work is protected by copyright. Works published after March 1, 1989 do not have to display copyright; however, it is beneficial because it puts others on notice and lets others using the software know that it is protected and registered. The notice includes the copyright symbol, the year the software was first published, and the name of the copyright owner. In the event that software is used without proper licensing or authorization, a proper copyright notice can establish that unauthorized use.

WHO CAN FILE

There is no requirement that applications be prepared or filed by an attorney. The author,

a copyright claimant, or the owner of exclusive right(s) may file and claim copyright protection. Any person authorized to act on behalf of the author, other copyright claimant, or owner of exclusive rights may apply for registration. Minors may claim copyright, and the Copyright Office issues registrations to minors, but state laws may regulate the business dealings involving copyrights owned by minors. For information on relevant state laws, consult an attorney.

WHAT SHOULD I FILE¹

Any work that is protected by U.S. copyright law can be registered. This includes many works of foreign origin. All works that are unpublished, regardless of the nationality of the author are protected in the United States. Works that are first published in the United States or in a country with which we have a copyright treaty, that are created by a citizen, or domiciliary of a country with which we have a copyright treaty are also protected and may therefore be registered with the U.S. Copyright Office.

Works that are published in the United States are subject to mandatory deposit with the Library of Congress. The U.S. Copyright Office is the only office that can accept applications and issue registrations. To register a work, you must submit a properly completed application form, a nonrefundable filing fee for each application, and a nonrefundable deposit of the work being registered. (The deposit requirements vary depending on the situations.) After the deposit is received, the software is transferred to another service unit of the Library for its collections or other disposition. Copies of the software deposited for copyright registration are placed in the Library of Congress collections. The deposit requirement consists of the best edition of the CD-ROM package of any work, including the accompanying operating software, instruction manual, and a printed version, if included in the package.

If the work is an unpublished or published computer program, the deposit requirement is one visually perceptible copy in source code of the first 25 and last 25 pages of the program. For a program of fewer than 50 pages, the deposit is a copy of the entire program. If the work is in a CD-ROM format, the deposit requirement is one complete copy of the material, that is, the CD-ROM, the operating software, and any manual(s) accompanying it. If registration is sought for the computer program on the CD-ROM, the deposit should also include a printout of the first 25 and last 25 pages of source code for the program.

You may register unpublished works as a collection on one application with one title for the entire collection if certain conditions are met. It is not necessary to list the individual titles in your collection, although you may by completing the designated form. Published works may only be registered as a collection if they were actually first published as a collection and if other requirements have been met.

¹ If the work was first published in the United States on or after January 1, 1978, two complete copies or phonorecords of the best edition. If the work was first published outside the United States, one complete copy or phonorecord of the work as first published.

If the Copyright Office receives an incomplete registration packet, the material received will not be processed and ordinarily will be returned.

WHEN SHOULD I FILE

Registration may be made at any time within the life of the copyright. The term of copyright for a particular work depends on several factors, including whether it has been published, and, if so, the date of first publication. A work that is created (fixed in tangible form for the first time) on or after January 1, 1978, 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. In the case of “a joint work prepared by two or more authors who did not work for hire,” the term lasts for 70 years after the last surviving author’s death.²

In general, the owner of copyright or the owner of the exclusive right of publication in the work has a legal obligation to deposit in the Copyright Office, within three months of publication in the United States.

To determine the length of copyright protection for a particular work, you can visit the Copyright Office website at <http://www.copyright.gov> or consult with an attorney.

HOW OFTEN SHOULD I FILE

A copyright registration is effective on the date the Copyright Office receives all the required elements in acceptable form, regardless of how long it then takes to process the application and mail the certificate of registration. Works created on or after Jan. 1, 1978, are not subject to renewal registration.

If you apply for copyright registration, you will not automatically receive an acknowledgment that your application has been received. Your registration packet can be mailed by registered or certified mail if you want to know the date that the Copyright Office receives your material. The time the Copyright Office requires to process an application varies. If your submission is in order, you may generally expect to receive a certificate of registration within approximately four to five months of submission.

Registration forms may be downloaded from the Copyright Office website. You may also get forms from the Copyright Office in person, by mailing in a request, or by calling the 24-hour-a-day forms hotline: (202) 707-9100.

You may make a new claim in your work if the changes are substantial and creative, something more than just editorial changes or minor changes. This would qualify as a new

² For works first published before 1978, the term will vary depending on several factors.

derivative work. For instance, simply making spelling corrections throughout a work does not warrant a new registration, but adding an additional feature(s) that may alter the functionality of the software.

WHAT'S THE DIFFERENCE BETWEEN A COPYRIGHT, TRADEMARK, TRADESECRET, AND PATENT

Some people confuse patents, copyrights, and trademarks. Although there may be some similarities among these kinds of intellectual property protection, they are different and serve different purposes. A patent for an invention is the grant of a property right to the inventor. What is granted is not the right to make, use, offer for sale, sell or import, but the right to exclude others from making, using, offering for sale, selling or importing the invention. A trademark is a word, name, symbol, or device, which is used in trade with goods to indicate the source of the goods and to distinguish them from the goods of others. Trademark rights may be used to prevent others from using a confusingly similar mark, but not to prevent others from making the same goods or from selling the same goods or services under a clearly different mark.

For further information regarding either patents or trademarks you can visit the United States Patent and Trademark Office website at <http://www.uspto.gov> or consult with an attorney.

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Thank you.