



GOODLOE LAW
MEMORANDUM

Re: Registration with the WGA and the Copyright Office

In order to protect the writer from unauthorized use of their works, registration with the Copyright Office is necessary. Although copyright protection begins when an author creates a work by fixing it in a tangible medium of expression, registration is necessary to bring an infringement suit for works originating in the United States. Registration creates *prima facie* evidence of copyright and shifts the burden of proof to the benefit of the copyright owner in an infringement suit. Further, registration is a prerequisite for obtaining statutory damages and attorney's fees.

The benefit of registration with the WGA – East or West – is more procedural. Many agents and studios will not look at a script that has not been registered with the WGA. One benefit is that registration provides evidence of a claim to authorship, and establishes the completion date of written material. But, this registration does not provide any statutory rights upon the author. Registration with the Copyright Office provides the same benefit of establishing a claim to authorship as registration with the Writers Guilds.

REGISTRATION BENEFITS AND PROCEDURES

1) Writers Guild of America, West

Registration with the WGA, West provides a dated record of the claim to authorship of literary material. This registration establishes the completion date of written material, but does not confer any other statutory rights upon the author. Any file, including scripts, treatments, synopses, outlines, and written ideas, may be registered with the WGA in documenting the creation of a work.

The registration process places preventative measures against plagiarism or unauthorized use of an author's material. It provides evidence of authorship and would potentially discourage others from using a registered work without the author's permission. Though the Registry cannot prevent plagiarism, it can produce the registered material as well as confirm the date of registration. Registering the work creates legal evidence for the material that establishes a date for the material's existence. The WGA, West Registry, as a neutral third party, can testify for that evidence.

Registration fees are \$20 for non-members and \$10 for WGA members. Registration is valid for five years, and may be renewed for an additional five year period at the current registration rate.

Changes to the Registered Work

An author may change her work as much as she wishes; however, when the storyline has been affected or changed extensively, it becomes new material and should be registered or documented again in some manner. It is solely at the author's discretion to submit multiple drafts or completed drafts of the same work for registration. The WGA Registry does not make comparisons of drafts or material content. Nevertheless, all submissions, including



subsequent drafts of existing registrations, are considered completely separate registrations and should be submitted accordingly with the required fees.

For more information, visit http://www.wga.org/subpage_register.aspx?id=1183

2) Writers Guild of America, East

Registration with the WGA, East is nearly identical to registration with the WGA, West. However, registration with the WGA, East confers a longer period of protection than the WGA, West. Whereas registration with the WGA, West last only five years and is renewable for an additional 5 years, registration with the WGA, East provides 10 years of protection initially and allows for an additional ten-year renewals. For registration with the WGA, East, members pay \$10. Registration for non-members is \$22. Students can register their material for \$17.

For more information, visit https://www.wgaeast.org/script_registration/

3) Copyright Office

The act of registration of a work with the Copyright Office does not create a copyright; copyright begins when an author fixes his work in a tangible medium of expression. However, registration can be critically important to the copyright owner because it can preserve copyright, and for works that originated in the United States, is a prerequisite for bringing an infringement suit.

Registration protects copyright owners against the unauthorized use of their works by establishing priority of ownership, and it confers *prima facie* evidence of the validity of the copyright and the facts stated in the certificate. Registration is absolutely necessary for bringing an infringement suit if the work's country of origin is the United States.

To register a claim for copyright, the claimant must send three elements in the same envelope to the Register of Copyrights. These are: (1) a properly completed application form (the form for motion pictures is found at: <http://www.copyright.gov/forms/formpai.pdf>); (2) a non-refundable fee of \$30 for each application; and (3) a deposit copy of the work to be registered. Copyright registration is effective on the date of receipt in the Copyright Office of all the required elements in acceptable form.

There is a special deposit requirement for motion pictures. If the work is a motion picture, the deposit requirement is one complete copy of the unpublished or published motion picture and a separate written description of its contents, such as a continuity, press book, or synopsis.

If the work has been changed since registration was made and if the changes are sufficient for the work to be considered a "derivative work," the proper procedure is to make a new basic registration for the revised version to cover the additions or revisions. A "derivative work" is, among others, a "work consisting of editorial revisions, annotations, elaborations, or other modifications which, as a whole, represent an original work of authorship...." 17 U.S.C. § 101.



For more information, visit <http://www.copyright.gov/circs/circ1.html>

4) Registration with the WGAs vs. Registration with the Copyright Office

Registration of a work with the WGAs is evidence of authorship. Registration of a work with the Copyright Office is evidence of ownership. The difference between authorship and ownership is significant. Registrants with the WGA may be primarily concerned with receiving proper recognition for their authorship of a work, including their rightful listing in finished work's credits and payment. Registrants with the Copyright Office are concerned primarily with ownership of the copyright and statutory consequences for potential infringers. For example, while an author may be employed by Disney to write a script or a portion of a script, Disney will ultimately own the copyright. Therefore, authors are often not eligible to copyright their written works. But, they may and should register with the WGAs to receive proper industry credit.

5) Registration of the Script with the WGAs – East vs. West

Whether an author chooses to register her script with the WGA, East or the WGA, West is a personal decision based on comfort with the individual WGAs and residency. Authors are eligible to register their scripts with either WGA, but most authors choose to register with the WGA that seems to geographically represent the author. That is, if an author lives east of the Mississippi River, she will generally register with the WGA, East. Conversely, if the author lives west of the Mississippi, she will likely register with the WGA, West.

Another consideration is the author's membership. Authors are likely not members with both WGAs, and, in the interests of economy, will register with their WGA. After all, it is slightly cheaper to register as a member of an author's particular WGA. For example, it costs \$20 for non-members to register a script with the WGA, West; members may register a script for \$10. Similarly, script registration with the WGA, East costs \$22 for non-members and \$10 for members.