

# Copyright Office Proposes Streamlined Registration Option for News Websites

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Copyright infringement is a significant problem for operators of news websites. As any journalism organization knows, producing original news content is a costly endeavor. All too often, sophisticated and amateur infringers alike copy content from news websites without permission and pass it off as their own – in many cases forcing legitimate news organizations to compete with their own content for views and advertising dollars.

Combating this infringement can be an uphill battle – in part, because of the burdens of obtaining a copyright registration for the infringed website content, which is a prerequisite for obtaining attorneys' fees and statutory damages under the Copyright Act.

On January 3, 2024, the U.S. Copyright Office published a Notice of Proposed Rulemaking (NPRM) in which it proposed to create a new group registration option for frequently updated news websites. Comments on the proposed rule must be submitted by February 20, 2024.

Currently, the only way to obtain a copyright registration for a news website is to submit a separate application, deposit material, and filing fee for each and every website update. In the NPRM, the Copyright Office acknowledged that this procedure can be "particularly costly and time-consuming for news content, which can be added, modified, or removed on a daily or hourly basis." The Copyright Office concluded that "there is substantial need for a new option for online news websites that are frequently updated."

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## Practice Areas

Copyright  
Intellectual Property  
Media  
Telecom, Media & Technology

Under the proposal in the NPRM, copyright owners would be able to register a news website as a collective work, including any individual components the publisher owns, by submitting a deposit that consists of “identifying material” rather than the complete contents of the website. We discuss the details of the Copyright Office proposal below.

### **Eligibility**

- The proposed new registration option would only be available to a “news website,” which the Copyright Office proposes to define as “a website that is mainly designed to be a primary source of written information on current events, either local, national, or international in scope, that contains a broad range of news on all subjects and activities and is not limited to any specific subject matter.”
- The proposed new registration option would only apply to collective works. To be eligible, therefore, each work submitted for registration must “contain a sufficiently creative selection, coordination, or arrangement of the individual component works, such as articles, photographs, illustrations, or other content.” An update to a news website would be considered original if it contains a new selection of content, even if some of the content was previously registered.
- The collective registration would cover all updates to a news website in a given calendar month. Applicants would be required to identify the earliest and latest date that updates were published on the website during the month specified in the application. The Copyright Office said that the one-month limit is necessary due to the limitations of its existing system, but that it may consider a different time range in the future.
- To be eligible for registration, each collective work in the group must have been created as a work made for hire, with the same person or entity named as the author and copyright claimant.
- Applicants would be required to identify the news website using a title that includes the URL for the site. The Copyright Office asks whether it should give applicants the opportunity to provide additional information, such as individual article or photograph titles, as part of this group registration option.

### **Application Requirements**

- The Copyright Office is proposing to use one of the current group registration application forms to process claims to register frequently updated news websites.
- All applications would be required to be submitted electronically.

### **Deposit Requirement**

- Typically, applicants are required to deposit complete copies of the works submitted for registration. However, the Copyright Office recognizes that “[r]equiring applicants to provide complete deposits of each news website imposes a significant and even unachievable burden on applicants, discouraging registration and making the news content increasingly vulnerable to infringement.”
- Under the proposed rule, applicants would only be required to submit a deposit that is sufficient to identify some of the updates that were made to the website. In particular, applicants will be required to

submit separate PDF files that each contain a complete copy of the home page for the site at a specific point during each day of the calendar month when new updates were published on the site (up to 31 per month).

- The Copyright Office notes that the copyright owner may still be required to prove in court or otherwise that specific content not contained in the deposit was published on the website at any particular point in time.

Notably, because news websites registered using this option would be registered as collective works, all parts of the work would constitute one work for the purposes of 17 U.S.C. § 504(c)(1). Therefore, news organizations would be limited to \$150,000 in statutory damages per infringer for each month in which the infringement occurs (although they may still seek actual damages if they are greater).

If you have questions about the NPRM, copyright registrations for websites, or if you are interested in filing comments, please contact one of the authors or the Wiley attorney who regularly handles your matters.