

## Monkey Business

In 2011 a black macaque monkey grabbed David Slater's camera and started pushing the buttons. It really turned out to be a great [selfie](#). However, on August 19<sup>th</sup>, 2014, the USPTO refused to register a copyright for it.

Copyright law limits copyright to the "original intellectual conceptions of the author" and since 1884 the US Copyright Office has refused to register a claim if a human being did not create the work. Specifically, the office will not register copyrights for works produced by nature, animals, plants or works attributed to divine or supernatural beings. Neither will they register copyrights for works created by machines or mechanical processes that operate automatically, randomly, or without creative input from a *human* author.

Under this standard, the monkey never really stood a chance.

While the above story is a lot of fun, it does bring up a different question: why would someone register a copyright? According to the US Copyright Office, copyright protection for a work exists from the time the work is created in fixed form. Moreover, the copyright immediately becomes the property of the creator (or his employer). So why bother?

It turns out that copyright registration provides several benefits.

First, registration establishes a public record of the claim.

Second, for works of US origin a copyright must be registered before an infringement suit can be brought before a US court. In addition, if the copyright was registered within 5 years of publication, the registration acts as prima facie evidence of the validity of the copyright, making it more difficult to argue that the copyright is invalid. Registration also affects the ability to collect statutory damages and attorney fees.

Finally, copyright registration allows the owner to register the work with the US Customs Service so that they can protect against the importation of infringing copies.

In order to register a copyright, you need to provide the US Copyright Office with an application, a filing fee and a "deposit," or a copy of the copyrighted work being registered. The application form used depends on the type of work being registered. The appropriate applications and instructions can be found on the [ECO Registration System](#) of the US Copyright office website. As of this writing, the applications are on the right hand side of the page and acceptable file types for online deposits are in the center of the page.

Do not confuse a deposit for registration with the "Mandatory Deposit" requirement. In general, the owner of a copyright has a legal obligation to deposit with the US Copyright Office two copies of the copyrighted materials for use by the Library of Congress. Fortunately, failure to comply does not appear to impact copyright protection but can result in fines and other penalties.

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