

## Trade Secrets in Copyright Registration for Computer Programs

Copyright Registration of computer programs without trade secret information requires a completed application form, a filing fee, and a deposit of identifying portions of the program (the first 25 pages and last 25 pages of the source code). When the computer program contains trade secret information, however, a different procedure is followed.

First, include a cover letter stating that the submission contains trade secrets. The cover letter can attach the page of the source code containing the copyright notice, if any.

Second, for a completely new computer program or for a revised computer program where the revisions are in the first 25 pages and last 25 pages of the source code, the deposit of identifying portions of the program is either: the first 25 pages and last 25 pages of the source code with portions containing trade secrets redacted; or the first 10 pages and last 10 pages of the source code with no portions redacted; or the first 25 pages and last 25 pages of object code plus any 10 or more consecutive pages of source code with no portions redacted; or, for programs of 50 pages of source code or less, the entire source code with portions containing trade secrets redacted. For revised versions of computer programs where the revisions are not in the first 25 pages and last 25 pages of source code, the deposit of identifying portions of the program is either: 20 pages of source code containing revisions with no portions redacted; or any 50 pages of source code containing revisions with portions containing trade secrets redacted. If depositing redacted portions of the source code, the redacted portions must be proportionately less than the visible portions of the original code and the visible portions must represent an appreciable amount of the original code.

While trade secret protection is a matter of state law, following these procedures should enable an author to seek federal registration of a computer program containing trade secrets, without waiving the trade secrets contained therein. To view the US Copyright Office Circular on Copyright Registration for Computer Programs, click this link <http://www.copyright.gov/circs/circ61.pdf>.

Zies Widerman & Malek © 2009