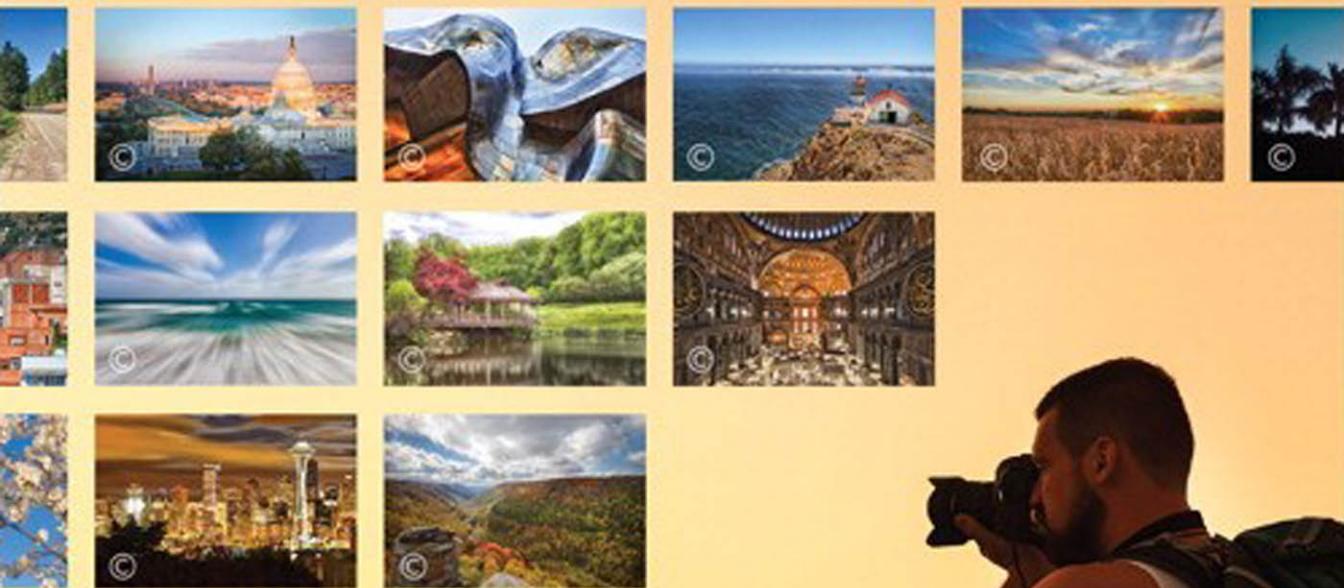


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WORKFLOW FOR PHOTOGRAPHERS



Protecting, Managing, and
Sharing Digital Images

CHRISTOPHER S. REED



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WORKFLOW FOR PHOTOGRAPHERS

Protecting, Managing, and
Sharing Digital Images

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Copyright Workflow for Photographers

Protecting, Managing, and Sharing Digital Images

Christopher S. Reed

Peachpit Press
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*To the talented professionals of the U.S. Copyright Office,
whose commitment to the interests of authors
and creators is a beacon in an otherwise relatively
dark and largely dysfunctional government.*

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Notwithstanding all the help and support of the people listed here, this book is fundamentally my own work, and all errors, omissions, and the like are mine alone.

About the Author

Chris Reed is both a lawyer and a photographer. On the legal front, Chris specializes in copyright and media law; photographically, he focuses largely on landscape and travel photography.

Chris recently served as senior advisor for policy and special projects at the U.S. Copyright Office, where he advised the register of copyrights on a variety of issues relating to copyright law and policy. He was involved in several of the register's landmark speeches and publications, including *The Next Great Copyright Act* and *The Next Generation Copyright Office: What It Means and Why It Matters*, as well as testimony presented before Congress. Prior to joining the Copyright Office, Chris was an attorney with the Antitrust Division of the U.S.

Department of Justice, where he worked principally on matters relating to the entertainment and media industries. Notably, he participated in the United States' investigation of the proposed Google Book Search Settlement Agreement and the investigation of the Comcast and NBC-Universal merger.

Chris received his B.S. in economics from Lehigh University and holds a J.D. and LL.M. in intellectual property from the University of New Hampshire School of Law, where he served as editor-in-chief of *IDEA: The Intellectual Property Law Review*, and where he currently serves as an adjunct professor teaching an advanced copyright course as part of the school's intellectual property master class curriculum. After graduation, Chris served as a law clerk to the Honorable Steven J. McAuliffe, Chief Judge of the U.S. District Court for the District of New Hampshire.

Chris is a member of the American Bar Association, the American Society of Media Photographers, and the Copyright Society of the United States. He is a member and fellow of the International Planetarium Society and also serves on the Board of Trustees of the American Society of Picture Professionals.

His photography website is www.chrisreedphoto.com and his personal website is www.csreed.com.

Chris currently resides in Los Angeles.

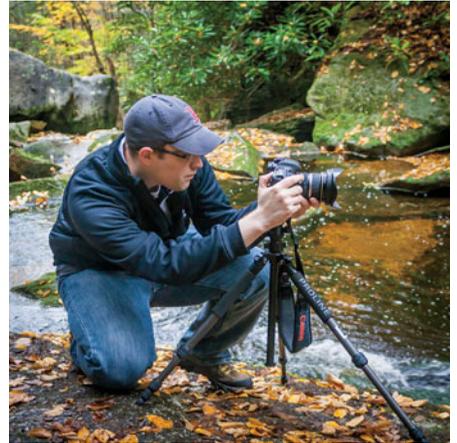


Photo by Ryan R. Kennedy



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Figure 8.5: Flowchart created with Lucidchart, www.lucidchart.com.



Introduction

An aerial photograph of Washington, D.C. at sunset. The Washington Monument is visible in the distance, centered in the frame. The city's buildings and streets are illuminated by the warm, golden light of the setting sun. The sky transitions from a deep blue at the top to a bright orange near the horizon. The foreground shows a large green lawn with some people walking, and a road with cars on the right side.

Welcome to *Copyright Workflow for Photographers*! This book is part legal manual and part software manual. The legal portion is designed to help you understand the basics of copyright law and how it pertains to your daily life as a photographer, while the software portion will help you build sensible copyright and rights-management concepts into your existing workflow. Before I get started, though, I want to describe the landscape of the copyright community and, more specifically, the photographer's place within it.

The Plight of the Digital Photographer

In general terms, copyright law provides to creators—including photographers—the right to exclusively control and, thus, profit from their works for a fixed period of time. In the olden days, it was relatively difficult to infringe on a photographer's work on any significant scale. You had to get access to the physical copy of the image—either the negative or the transparency—which usually required interacting with the photographer directly or with the photographer's agent; then you had to make physical copies in a darkroom. Put simply, infringement of a photograph used to require a reasonable investment in terms of time, equipment, and technical skill.

Fast-forward to today. The Internet has become a primary mechanism for the marketing and distribution of images. Families share photos among relatives on commercial websites such as Flickr, and virtually every professional photographer has a website where his or her images are available for the entire world. Making copies of those images is typically as easy as right-clicking it and telling your computer where to save the file.

The relative ease with which people can remove and manipulate content has created a widespread infringement problem for many creative professionals. The music industry famously did battle with peer-to-peer file sharers who transferred digital copies of music with impunity, and other creative businesses such as the motion picture and publishing industries experience similar problems.

For photographers, the issues are particularly pronounced, however, because of the rich visual culture in which we live and the meteoric rise of web-based platforms that enable photo sharing. Because visual content has become so ubiquitous, many web users don't think twice about uploading content they found from some other website—yet, technically, it amounts to infringement in most cases. With the right-click of a mouse, a user can make a reproduction of a copyrighted image and, with a few more clicks, upload that same image to his or her own social media profile, prompting a flurry of "likes" or "shares" that further disseminate the image without permission of the original photographer. Meanwhile, the companies that operate these platforms often benefit financially by selling advertising.

Indeed, as Eugene Mopsik, the executive director of the American Society of Media Photographers (ASMP) has quipped on numerous occasions, it often appears that everyone has figured out how to make money from photography, except for the photographers.

The Paradox of “Getting It Out There”

Among aspiring professional photographers, and even those who don't intend to profit from their work, it has become a mantra that to be successful (however you might define that term), you have to “get your work out there.” You do so by uploading it to social networking sites, blogs, personal websites, and photo sharing sites. Sharing images has never been easier or cheaper, which has enriched the experience of photography for hobbyists and professionals alike and, perhaps most important, created a new sense of community among those with a passion for photography.

On the commercial side, marketing, distributing, and licensing photography has never been easier, at least from a technical perspective, as faster connection speeds and a proliferation of platforms on which to license works have brought image buyers and sellers closer together. (Of course, the business of marketing photography has become substantially more difficult than it once was because of increased competition and market fragmentation, which has resulted in downward price pressure on the industry.)

The necessary implication of “getting it out there” is making it available for others to infringe upon—whether intentionally or unintentionally. A recent post from a participant on a photography-related web forum summed it up nicely: “My quandry is between having Internet exposure to a broad audience and protecting my copyrights.”

Copyright's Perception Problem

One of the biggest challenges facing the copyright system today is the broad public misunderstanding of copyright law. Too often, the public discourse surrounding copyright law gets characterized in terms of big content companies—film studios, recording companies, publishers, and the like—wanting to preserve their antiquated business models by bringing infringement litigation against those who find new, innovative ways to distribute or use copyrighted content. Many people even believe that copyright enforcement has led to a decline in technological innovation.

The reality is exactly the opposite. Without copyright law, those companies would have little incentive to invest in creating the content in the first place, let alone innovating new distribution technologies or business models. But more important, what's often missing from the copyright discussion is the role of the individual creators—the people who actually put in

the work to create the books, music, films, and the like that comprise our cultural heritage.

For photographers, the problem is even more significant because photographers, more often than not, work independently and have nothing but their images—and more specifically the copyright interest in those images—from which to generate a living. Those who don't generate income from their images still often avail themselves of the exclusive control that copyright provides in terms of deciding when and where to share their images. (And of course, those who don't want to are free to disavow their rights by committing the work to the public domain.)

Even among those who do understand copyright law, there is increasingly little respect for it. The anonymity of the Internet has only advanced the erroneous perception that copyright infringement is victimless, or that simple online uses such as social media posts, should not require permission of the copyright owner, because it provides the creator with more exposure than he or she otherwise would have received. Such arguments ignore the fundamental principles of copyright, which include the right to control the use of the work, subject to certain exceptions (such as fair use, described in Chapter 1).

The point is that when copyright comes up in general social circles, it's often met with hostility, which can be a challenge for photographers whose livelihoods depend on it. Grassroots organizations such as the Copyright Alliance (www.copyrightalliance.org) and Creative Future (www.creativefuture.org) are working to give independent creators a voice. Through recently improved public outreach initiatives, the Copyright Office is working hard to improve the public perception of the copyright system, but until the law is updated to accommodate the digital environment, and until it becomes more accessible to the public, the perception problem is one that we as independent creators and copyright owners must be aware of.

Specific Challenges for Photographers

Copyright law is outdated and, in some cases, it isn't effectively serving the needs of the creative community. In this section, I provide some specific examples of how copyright law is presenting challenges that impact photographers specifically.

Lack of effective enforcement tools

Copyright infringement of images is rampant on the Internet. The ease with which images can be freely downloaded, copied, and re-uploaded or used in new types of digital content, coupled with a general sense among many Internet users that if something appears online, it's free for the taking, has led to a widespread infringement problem for photographers.

Under the Digital Millennium Copyright Act, copyright owners are entitled to issue "takedown notices" to service providers (such as social networking sites) to demand that the infringing content be removed from their service. (I discuss takedown notices in more detail in Chapter 7.) That approach seems promising in theory, but in practice it's largely ineffective because the takedown notice procedure applies only to a specific instance of infringing content. If a particular image is removed from a social networking site, the user may simply re-upload it, requiring the photographer to issue yet another takedown notice. To many in the copyright community, this has become known as the "whack-a-mole" problem.

Some service providers have implemented blocking technologies that identify previously removed content and prevent users from re-uploading it, and some will suspend or terminate the accounts of users caught engaging in such behavior. Still, the responsibility of Internet intermediaries to police their users' infringements remains a very hotly contested issue between the copyright community and the technology community. Until Congress or the courts provide some clarity, it's unlikely that the process will get much easier for photographers.

Depending on the nature of an infringement and the losses that result, a photographer might want to sue the alleged infringer in court. That, too, may seem like a good idea in theory, but the reality is that the cost to bring a lawsuit in federal court (copyright law is exclusively federal; see Chapter 1 for more on this) often far exceeds the likely recovery associated with a particular infringement, particularly in light of the declining value of individual image licensing in the marketplace. (Although there is no requirement that a court consider reasonable license fees when it's determining an appropriate damages award, such fees are very often where courts begin their analyses.)

The Copyright Office recently studied the issue and issued a report encouraging Congress to consider developing a small claims tribunal within the Copyright Office to accommodate authors who want to sue for relatively small amounts of money. Although such a system is very likely many years away, the fact that the Copyright Office is evaluating the possibility is an encouraging step forward. You can read the Copyright Office's report and proposal at www.copyright.gov/docs/smallclaims.

Time for a new copyright act?

In March 2013, the U.S. Register of Copyrights and Director of the U.S. Copyright Office, Maria A. Pallante, gave a landmark speech at Columbia Law School in which she called upon Congress to update the copyright law for the digital age. She noted that the current copyright law, which was passed in 1976, and negotiated for nearly 20 years before that, is “showing the strain of its age” and that because of the law’s outdatedness, “authors do not have effective protections, good faith businesses do not have clear road maps, courts do not have sufficient direction, and consumers and other private citizens are increasingly frustrated.”

The next month, Congress took her up on her offer, as Congressman Bob Goodlatte, Chairman of the House Judiciary Committee, announced his intention to undertake a comprehensive review of copyright law. Since that time, the committee has held a number of hearings on the matter and has heard from dozens of voices in the copyright debate, including photographers. The Copyright Office has also undertaken a variety of studies and reports to help guide Congress in its review.

It remains uncertain whether we’ll see any legislative change as a result of the current review process, but it’s a positive sign that the needs of the creative community are getting some much-needed and long-awaited attention from lawmakers.

You can read Pallante’s speech at www.copyright.gov/docs/next_great_copyright_act.pdf.

An outdated registration system

Copyright registration is effectively a bargain with the public: in exchange for the ability to receive enhanced damages, copyright owners agree to provide the public with certain information about the copyrighted works they’ve created. You can read more on this in Chapters 1 and 2.

The registration system (covered in detail in Chapters 3 and 4) benefits both sides of the copyright equation: by effectively putting the public on notice of a particular copyright claim, and by providing would-be users of copyrighted works with a source of contact information for rightsholders.

The system works quite well if you happen to know the title or author of the work that you’re searching for. But for photographers or image users, the current system presents significant challenges. Most photographers don’t give individual titles to their works, for example. And even when they do, very often they use the camera’s native filenames, which provide very

little guidance to users about the nature of the underlying work. In short, because the current registration system doesn't supply image thumbnails or allow for reverse image searching, it's of limited practical value to the photography community beyond the legal entitlements that registration provides.

Several years ago, the director of the Copyright Office launched a comprehensive evaluation of the office's information technology systems with the goal of developing a framework for a next-generation registration system. In its public notice announcing the study, it specifically noted the need for improving the system for photographers, including the possible development of image-based technologies. The development of a new system is likely a number of years away, but the good news is that because the Copyright Office has broad legal authority to manage the registration system, such improvements may not require Congress to intervene.

The Digital Reality

The reality of the digital age is perhaps best characterized by the proverbial double-edged sword. On the one hand, the ease with which digital images are created, shared, and distributed offers photographers—professionals and amateurs alike—with more opportunity than ever before to expose the world to their work; on the other hand, that work is now more easily stolen or otherwise misappropriated, and photographers can very quickly lose control.

Assuming that keeping your work locked away on private hard drives is not an option, you need to develop copyright management and content protection strategies that fit within your existing workflow that will help you optimize the balance between maximizing exposure and maintaining control of your work. Developing those strategies is the focus of this book.

CHAPTER 4

Registration Using Paper Forms

In Chapter 3, I discuss the process of registering your photos with the U.S. Copyright Office using the online registration platform, eCO. Although electronic registration is the preferred (and faster) method to register your images, the Copyright Office still accepts paper forms for people who prefer to file that way and for people who are registering a group of published images (a paper form is the only way to register a group of published images, at least for now). This chapter walks you through the application process using paper forms.



Note

Although you can register a single image using a paper form, filing those registrations using eCO is the preferred method, so in this chapter I focus on the procedure for registering a group of published images.

The Necessary Forms

You'll encounter two primary forms when registering images: Form VA (which stands for "visual arts") and Form GR/PPh/CON (which stands for "group registration of published photographs continuation sheet").

Note

Because "Form GR/PPh/CON" is a mouthful, I'll refer to that form throughout this chapter as simply the "continuation sheet."

You can find both forms on the Copyright Office website at www.copyright.gov/forms in "fillable" format, which enables you to type your responses online and print out the completed forms, instead of having to complete the forms by hand.

The front of Form VA is shown in **Figure 4.1**; the back is shown in **Figure 4.2**.

Preparing Form VA

Form VA is the foundation of a paper application for published images, while the continuation sheet, discussed later in this chapter, adds additional information to the application (and, strictly speaking, is optional—but more on that later). I walk you through how to complete Form VA section by section here. (The Copyright Office calls each section of the form a "space." Go figure.)

Copyright Office fees are subject to change. For current fees, check the Copyright Office website at www.copyright.gov, write the Copyright Office, or call (202) 707-3000.

Privacy Act Notice: Sections 408-410 of title 17 of the *United States Code* authorize the Copyright Office to collect the personally identifying information requested on this form in order to process the application for copyright registration. By providing this information you are agreeing to routine uses of the information that include publication to give legal notice of your copyright claim as required by 17 U.S.C. §705. It will appear in the Office's online catalog. If you do not provide the information requested, registration may be refused or delayed, and you may not be entitled to certain relief, remedies, and benefits under the copyright law.

VA _____ VAU _____
EFFECTIVE DATE OF REGISTRATION

Month _____ Day _____ Year _____

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

1 TITLE OF THIS WORK ▼ NATURE OF THIS WORK ▼ See instructions

PREVIOUS OR ALTERNATIVE TITLES ▼

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

If published in a periodical or serial give: Volume ▼ Number ▼ Issue Date ▼ On Pages ▼

2 a NAME OF AUTHOR ▼ DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

WAS THIS CONTRIBUTION TO THE WORK A "WORK MADE FOR HIRE"?
 Yes No

AUTHOR'S NATIONALITY OR DOMICILE
Name of Country _____
OR { Citizen of _____
Domiciled in _____

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK
Anonymous? Yes No
Pseudonymous? Yes No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Check appropriate box(es). See instructions

3-Dimensional sculpture Map Technical drawing
 2-Dimensional artwork Photograph Text
 Reproduction of work of art Jewelry design Architectural work

2 b NAME OF AUTHOR ▼ DATES OF BIRTH AND DEATH
Year Born ▼ Year Died ▼

WAS THIS CONTRIBUTION TO THE WORK A "WORK MADE FOR HIRE"?
 Yes No

AUTHOR'S NATIONALITY OR DOMICILE
Name of Country _____
OR { Citizen of _____
Domiciled in _____

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK
Anonymous? Yes No
Pseudonymous? Yes No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Check appropriate box(es). See instructions

3-Dimensional sculpture Map Technical drawing
 2-Dimensional artwork Photograph Text
 Reproduction of work of art Jewelry design Architectural work

3 a YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED
Year ▶ _____

3 b DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK
Complete this information ONLY if this work has been published.
Month ▶ _____ Day ▶ _____ Year ▶ _____
Nation ▶ _____

4 COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

DO NOT WRITE HERE OFFICE USE ONLY

APPLICATION RECEIVED _____

ONE DEPOSIT RECEIVED _____

TWO DEPOSITS RECEIVED _____

FUNDS RECEIVED _____

Figure 4.1 Front of Form VA.

EXAMINED BY _____	FORM VA
CHECKED BY _____	
CORRESPONDENCE	FOR COPYRIGHT OFFICE USE ONLY
<input type="checkbox"/> Yes	

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

Yes No If your answer is "Yes," why is another registration being sought? (Check appropriate box.) ▼

a. This is the first published edition of a work previously registered in unpublished form.

b. This is the first application submitted by this author as copyright claimant.

c. This is a changed version of the work, as shown by space 6 on this application.

If your answer is "Yes," give: **Previous Registration Number** ▼

Year of Registration ▼

5

DERIVATIVE WORK OR COMPILATION Complete both space 6a and 6b for a derivative work; complete only 6b for a compilation.

a. **Preexisting Material** Identify any preexisting work or works that this work is based on or incorporates. ▼

6

a See instructions before completing this space.

b. **Material Added to This Work** Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼

b

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.

Name ▼

Account Number ▼

7

a

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt./City/State/Zip ▼

b

Area code and daytime telephone number ()

Fax number ()

Email

CERTIFICATION* I, the undersigned, hereby certify that I am the

check only one ▶

- author
- other copyright claimant
- owner of exclusive right(s)
- authorized agent of _____

Name of author or other copyright claimant, or owner of exclusive right(s) ▲

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Typed or printed name and date ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date.

Date

Handwritten signature (X) ▼

X

8

Certificate will be mailed in window envelope to this address:

Name ▼

Number/Street/Apt ▼

City/State/Zip ▼

YOU MUST:

• Complete all necessary spaces

• Sign your application in space 8

SEND ALL 3 ELEMENTS IN THE SAME PACKAGE:

1. Application form

2. Nonrefundable filing fee in check or money order payable to Register of Copyrights

3. Deposit material

MAIL TO:

Library of Congress

Copyright Office-VA

101 Independence Avenue SE

Washington, DC 20559

9

*17 U.S.C. §506(e). Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

Figure 4.2 Back of Form VA.

Space 1

To complete space 1 (shown in **Figure 4.3**), follow these steps:

1. Under Title of This Work, write the title of your group of images.

Your title doesn't need to be anything fancy, but it should describe the contents of the group generally—for example, "January 2015 Images" or "Canada Trip 2015." Your title might differ based on whether you adopt a shoot-by-shoot or periodic approach to registering your images (see Chapter 2 for more on this).

2. Under Previous or Alternative Titles, write "Group registration of X published photographs," where X is the number of images contained in the group.
3. Under Nature of This Work, write "Photographs."

Figure 4.3 Space 1 of Form VA.

Space 2

To complete space 2 (shown in **Figure 4.4**), follow these steps:

1. Under Name of Author, enter your name (assuming you're the photographer).
2. Under Dates of Birth and Death, enter the year you were born. Unless you're a ghost (or you're registering a copyright for someone who has died), you can skip the year of death.
3. Under "Was this contribution to the work a 'work made for hire'?", check No.
4. Under Author's Nationality or Domicile, write the country you're a citizen of or the country where you reside.

It's up to you which one you provide, but the law requires you provide one or the other.

2 a NAME OF AUTHOR ▼ Reed, Christopher S. DATES OF BIRTH AND DEATH
 Year Born ▼ 1981 Year Died ▼

Was this contribution to the work a "work made for hire"? Yes No

Author's Nationality or Domicile
 Name of Country OR Citizen of United States Domiciled in

Was This Author's Contribution to the Work
 Anonymous? Yes No Pseudonymous? Yes No

Nature of Authorship Check appropriate box(es). See instructions

<input type="checkbox"/> 3-Dimensional sculpture	<input type="checkbox"/> Map	<input type="checkbox"/> Technical drawing
<input type="checkbox"/> 2-Dimensional artwork	<input checked="" type="checkbox"/> Photograph	<input type="checkbox"/> Text
<input type="checkbox"/> Reproduction of work of art	<input type="checkbox"/> Jewelry design	<input type="checkbox"/> Architectural work

Figure 4.4 Space 2 of Form VA.

5. Under Was This Author's Contribution to the Work, check No twice, unless you're registering anonymously or under a pseudonym (both of which are rare—after all, part of why you're registering your copyright is to be a part of the public record).
6. Under Nature of Authorship, check the Photograph box.

Space 3

To complete space 3 (shown in **Figure 4.5**), follow these steps:

1. Under Year in Which Creation of This Work Was Completed, enter the year in which you made the newest photograph in the group.
 So, for example, if your group contains images made over a three-year period ranging from 2011 to 2014, you would enter "2014" here.
2. Under Date and Nation of First Publication of This Particular Work, if all the photographs in the group were published on the same date in the same country, enter the month, day, and year, as well as the nation in which they were published.

Tip

If you don't know the exact date, provide your best estimate, but write "approximately" in the margin.

If the photographs were published on different dates, provide the range of dates.

3 a Year in Which Creation of This Work Was Completed 2014 This information must be given in all cases.

b Date and Nation of First Publication of This Particular Work
 Complete this information ONLY if this work has been published. Month June Day 1 Year 2014 United States Nation

Figure 4.5 Space 3 of Form VA.

Tip

I typically use the blanks on the form for the first date and then in the margin, after I've printed the form, I write "to" and the end of the date range.

Note

You have to identify the specific date of publication for each photograph in the group either on the continuation sheet or on the deposit copy (covered later in this chapter), unless all the images were published within three months of registration, in which case the date range provided in space 3b is enough.

Space 4

In space 4, provide the copyright claimant name and address, which in most cases will be the same as the photographer.

Tip

Because the information you provide on Copyright Office forms becomes public (because the copyright registration process is fundamentally about creating public records), if you're concerned about privacy or personal security, you might consider obtaining a post office box for business purposes. Not all the information you provide on the application will end up in the Copyright Office's database, but anyone can visit the office in Washington, D.C., and review a copy of your application.

Space 5

In space 5, you must disclose whether you've previously registered a version of the images for which you're completing the form. In most cases, you can simply check No and move to the next section.

However, if your photographs contain substantial elements from prior work, you should check Yes and then also check "This is a changed version of the work, as shown by space 6 on this application." If the prior work is registered, you must also provide the registration number and year of registration in the space provided.



CAUTION!

If the work you're registering contains significant portions of prior work, especially if that prior work was created by someone other than yourself, talk to an attorney. How you describe the contours of your claim could have a significant impact on your rights, and you want to get it correct.

Space 6

Space 6 is only for derivative works or compilations. If this applies to you, briefly describe the original work and the material you added or changed, as appropriate. Odds are, you'll just skip this section.

Space 7

If you have a deposit account with the Copyright Office, you need to complete space 7a. Chapter 3 provides more information about deposit accounts. Most people don't have deposit accounts, so you'll probably skip space 7a.

In space 7b, provide the contact information for the person you'd like the Copyright Office to correspond with if they have questions about the application. In most cases, this will be you.

Space 8

Space 8 requires you to certify that the information stated in your application is true and correct to the best of your knowledge. Assuming you're registering for yourself, check the Author box. Print and sign your name, and date it.

Space 9

In space 9, provide the address where the Copyright Office should mail your certificate. The certificate will be prepared from a scan of the application form and folded so that what you type here will appear in a windowed envelope.

Preparing the Continuation Sheet and Deposit Copies

Once you've completed Form VA, which provides general information about the group of images you're registering, it's time to provide some more specific information about each of the images, which is where the continuation sheet comes in. Copyright Office regulations require that you provide the date of publication for each photograph included in the group, and the continuation sheet is one way to do that. Strictly speaking, the continuation sheet is one of several ways to provide the publication dates (the other options are to include the date on each image itself or on a hardcopy or text file list that is submitted with the images).

The information you provide on the continuation sheet will become part of the registration certificate so that anyone looking at the certificate itself—like a court in the case of an infringement lawsuit—can tell, by title at least, which images are part of the registration. Putting the dates of publication on the images themselves will also help tie together the deposit and the certificate, creating a more complete public record. For that reason, I strongly recommend both submitting the continuation sheet and including additional information on the face of the image itself, as I discuss in this section.

The continuation sheet

Completing the continuation sheet (shown in **Figure 4.6**) is pretty straightforward:

1. In space A, provide the name of the author and the name of the copyright claimant *as they appear on Form VA*.

It's very important that the information you provide in this section matches *exactly* the information you provide on Form VA.

2. Space B is where you briefly describe each photograph, including the date of publication. Number each image in your filing sequentially in the Number box. For each image, you have to provide the title and the date and nation of first publication. You may also provide a brief description, but that's not required.

Typically I use the filename as the title, but if you usually give your images unique titles, feel free to use those. What's important is that the title is descriptive enough that you can identify later which image

CONTINUATION SHEET FOR FORM VA

for Group Registration of Published Photographs

REGISTRATION NUMBER _____

USE ONLY WITH FORM VA

EFFECTIVE DATE OF REGISTRATION

(Month) _____ (Day) _____ (Year) _____

CONTINUATION SHEET RECEIVED

Page _____ of _____ pages

- This optional Continuation Sheet (Form GR/PPh/CON) is used only in conjunction with Form VA for group registration of published photographs.
- This form *may not* be used as a continuation sheet for unpublished collections. To list individual titles in unpublished collections, use Form CON.
- If you do not have enough space for all the information you need to give on Form VA or if you do not provide all necessary information on each photograph, use this Continuation Sheet and submit it with completed Form VA.
- No more than 50 continuation sheets (or 750 photos) may be used with a single filing fee and Form VA.
- If you submit this Continuation Sheet, clip (do not tape or staple) it to completed Form VA and fold the two together before submitting them.
- Space A of this sheet is intended to identify the author and claimant.
- Space B is intended to identify individual titles and dates of publication (and optional description) of individual photographs.
- Use the boxes to number each line in Part B consecutively. If you need more space, use additional Forms GR/PPh/CON.
- Copyright fees are subject to change. For current fees, check the Copyright Office website at www.copyright.gov, write the Copyright Office, or call (202) 707-3000.

DO NOT WRITE ABOVE THIS LINE. FOR COPYRIGHT OFFICE USE ONLY

A

Identification of Application

IDENTIFICATION OF AUTHOR AND CLAIMANT: Give the name of the author and the name of the copyright claimant in all the contributions listed in Part B of this form. The names should be the same as the names given in spaces 2 and 4 of the basic application.

Name of Author _____

Name of Copyright Claimant _____

B

Registration for Group of Published Photographs

COPYRIGHT REGISTRATION FOR A GROUP OF PUBLISHED PHOTOGRAPHS: To make a single registration for a group of works by the same individual author, all published within 1 calendar year (see *instructions*), give full information about each contribution. If more space is needed, use additional Forms GR/PPh/CON. Number the boxes.

Number	Title of Photograph _____
	Date of First Publication _____ (Month) _____ (Day) _____ (Year) _____ Nation of First Publication _____
	Description of Photograph _____ (Optional)
Number	Title of Photograph _____
	Date of First Publication _____ (Month) _____ (Day) _____ (Year) _____ Nation of First Publication _____
	Description of Photograph _____ (Optional)
Number	Title of Photograph _____
	Date of First Publication _____ (Month) _____ (Day) _____ (Year) _____ Nation of First Publication _____
	Description of Photograph _____ (Optional)
Number	Title of Photograph _____
	Date of First Publication _____ (Month) _____ (Day) _____ (Year) _____ Nation of First Publication _____
	Description of Photograph _____ (Optional)
Number	Title of Photograph _____
	Date of First Publication _____ (Month) _____ (Day) _____ (Year) _____ Nation of First Publication _____
	Description of Photograph _____ (Optional)

Figure 4.6 Form GR/PPh/CON (also known as the continuation sheet).

it's referring to. It's also important that the title you provide on the continuation sheet is the same as the title you provide on the deposit copy itself (see the next section), which is why I find using the filename to be the best approach.

Each continuation sheet contains space for 15 images. If you have more than that, use additional sheets of paper, but continue numbering sequentially (that is, the first number on your second continuation sheet would be 16).

Note

I regularly have trouble with the first entry on each form getting slightly cut off to the point that it's difficult to read (see Figure 4.7). I usually end up writing the first entry by hand after I print the form just to make sure it's clear.

B Registration for Group of Published Photographs

COPYRIGHT REGISTRATION FOR A GROUP OF PUBLISHED PHOTOGRAPHS: To make a single registration for a group of works by the same individual author, all published within 1 calendar year (see instructions), give full information about each contribution. If more space is needed, use additional Forms GR/PPh/CON. Number the boxes.

1	Title of Photograph	20140517-Tulane2014-9144.CR2				
	Date of First Publication	06	01	2014	Nation of First Publication	United States
	Description of Photograph	Tulane University 2014 Commencement				
2	Title of Photograph	20140517-Tulane2014-9145.CR2				
	Date of First Publication	06	01	2014	Nation of First Publication	United States
	Description of Photograph	Tulane University 2014 Commencement				

Figure 4.7 For some reason, the first entry often ends up being cut off, so you may want to leave this blank and fill it out by hand after you print the form.

Note

Copyright Office regulations allow no more than 50 continuation sheets per application. Because each sheet contains space for 15 images, you're limited to 750 images per registration application. If you have more than 750 images to register at one time, you need to file more than one application (and pay more than one registration fee).

3. In space C, provide the address where you want the Copyright Office to mail the certificate. It may seem redundant to have to do this on Form VA as well as on each continuation sheet, but it helps ensure that none of the pages gets separated (and if they do, it makes it easier to track down the rest of the application).

Once you're finished with the continuation sheets, it's time to create the deposit copies of each image that's part of the group.

Deposit copies

Preparing the deposit copies is fairly straightforward, especially if you're using Adobe Lightroom, because you can partially automate the process using export presets and an inexpensive plugin called LR/Mogrify 2, which is available from www.photographers-toolbox.com. You can download a trial version of the software for free, but it's limited to exporting only ten images at a time. You can unlock the full version of the software by making a small donation (any amount that you choose) to the software developers.

After you've installed LR/Mogrify 2, you can easily produce deposit images with the following steps:

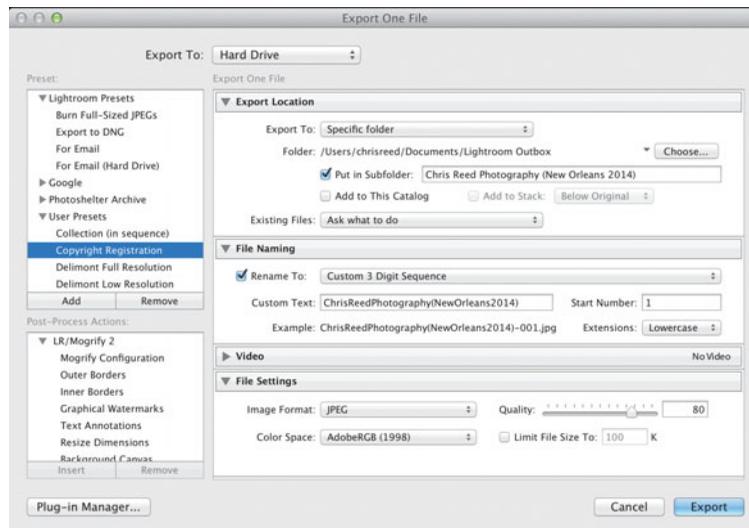
Note

This process may seem a little lengthy and laborious, but a lot of it is setup work that you can save as a preset, so next time you register, you won't have to go through all this again. Spending a little time upfront will save you a lot of time down the road.

1. In Lightroom, select one image from the group that you're registering. With that image selected, from the File menu, choose Export.

The Export One File dialog box (shown in **Figure 4.8**) appears.

Figure 4.8 The Export One File dialog box in Lightroom.



2. In the Export Location panel of the Export One File dialog box, designate a location on your computer to store the deposited images.

I have a master folder called “Lightroom Outbox” that I use to stage output from Lightroom, and inside of that I have Lightroom create separate folders for each export. You can do this by checking the Put in Subfolder box and then giving the folder a name.

As shown in **Figure 4.9**, the name of the folder is the title from my registration application, “Chris Reed Photography (New Orleans 2014).” You can call the folder whatever you want (it really doesn’t matter for copyright registration purposes). Just be sure to remember where your images are going to be saved so you can find them again later.

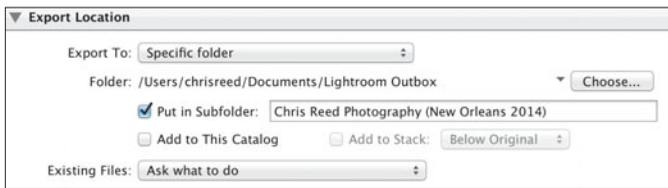


Figure 4.9 Tell Lightroom where to save your finished files.

3. In the File Naming panel of the Export One File dialog box, check the Rename To box and select Edit from the drop-down list (see **Figure 4.10**).

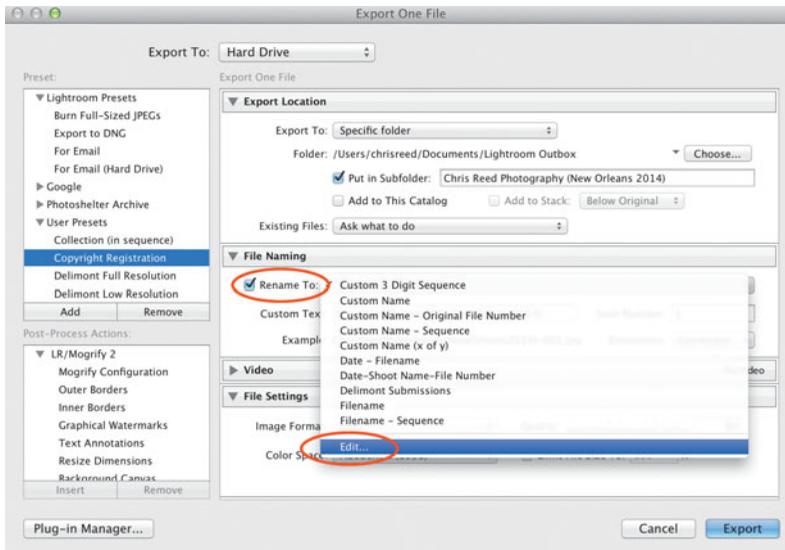


Figure 4.10 Select Edit from the drop-down list.

The Filename Template Editor dialog box (shown in **Figure 4.11**) appears.

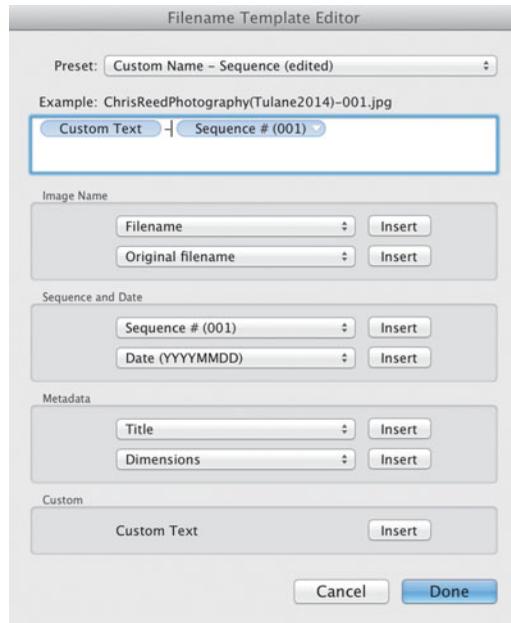


Figure 4.11 The Filename Template Editor dialog box.

4. In the Filename Template Editor dialog box, select Custom Name – Sequence from the Preset drop-down list. In the text field, you should have a template filename that says “Custom Text – Sequence # (1),” which is a great start, but you need to make one adjustment: Delete the “Sequence # (1)” part. Then under the “Sequence and Date” heading, select Sequence # (001) (see **Figure 4.12**) from the top drop-down list, and click Insert.

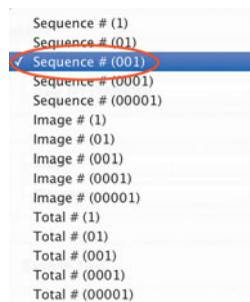


Figure 4.12 Select Sequence # (001) from the drop-down list.

This will add a sequence variable to the template filename, but with placeholders for three digits, which will help keep your images organized properly. When you're finished, go back up to the Preset drop-down list at the top of the dialog box, select Save Current Settings as New Preset, and give the filename preset a name. You can call it whatever you like, but I decided to call it Custom 3 Digit Sequence.

When you're finished, click Done.

5. Back in the File Naming panel of the Export One File dialog box, in the Custom Text field, type the name of your group but without spaces (some computer systems still have difficulty parsing filenames with spaces).

In my example, it's "ChrisReedPhotography(NewOrleans2014)," as shown in **Figure 4.13**.

Make sure the Start Number is set to 1. The idea is to output a batch of images that are numbered sequentially and that relate to the image descriptions that you provided on the continuation sheet in the last part of this chapter. **See the Caution note on page 84 for circumstances in which you'll want to change this number.**

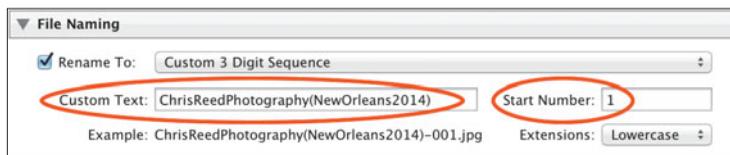


Figure 4.13 Use the name of your group registration as the filename (without spaces) and start the numbering at 1.

6. In the File Settings panel of the dialog box, set the image format to JPEG and the quality to 80.

There is no need to limit the file size, and the color space isn't important for copyright registration purposes.

7. In the Image Sizing panel of the dialog box, check the Resize to Fit box and select Long Edge from the drop-down list. Set the sizing parameter to 1000 pixels and a resolution of 240 pixels per inch (see **Figure 4.14**).

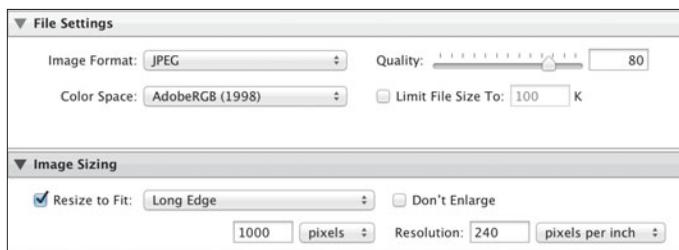


Figure 4.14 Set the file settings as shown here.

Note

The Copyright Office has no set requirements for size or resolution, but the image should be big enough so that the copyright examiner—and perhaps a court down the road—can see the detail in the image. Remember that if you end up in court, it’s probably to determine whether your image is similar to someone else’s image, so you want to be sure the deposit copy is good enough to do that.

Note

You can ignore the Output Sharpening, Metadata, and Watermarking panels—they’re not important for creating Copyright Office deposit copies.

8. Now find the list of post-process actions in the lower-left corner of the Export One File dialog box. You should see a list of options under LR/Mogrify 2, as shown in **Figure 4.15** (you may need to expand this list by clicking the arrow on the left).

Select Outer Borders and click Insert; select Inner Borders and click Insert; and finally, select Text Annotations and click Insert.

You should now see three additional panels in the list of export options on the right side: Mogrify Outer Border Options, Mogrify Inner Border Options, and Mogrify Text Annotations.



Figure 4.15 Activate the LR/Mogrify plug-in by selecting the actions shown here.

9. In the Mogrify Outer Border Options panel (shown in **Figure 4.16**), click the + button to add an outer border. Uncheck the “Identical borders” box and make sure that all the drop-down lists are set to Pixels. Then type 30 for the left and right sides, and 50 for the top and bottom. If it isn’t already set, change the border color to black by clicking the color swatch (mine defaults to black, so I don’t usually need to do anything to the color).

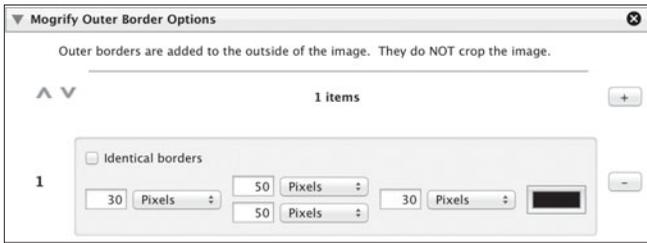


Figure 4.16 Set the outer border options as shown here.

- Now switch to the Mogrify Inner Border Options panel (shown in Figure 4.17), and click the + button to add an inner border. This time, make sure the “Identical borders” box is checked and that all the drop-down boxes are set to Pixels. Now set the inset to 0 and the size to 1. The color should be set to white (again, the default for me, so you may not need to change it), and set the opacity to 100%.

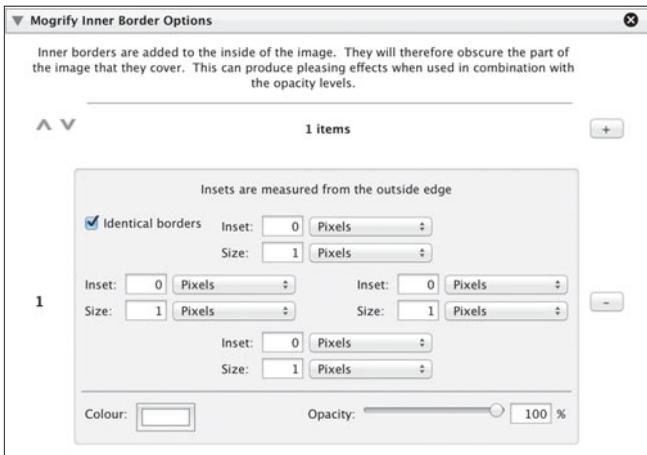
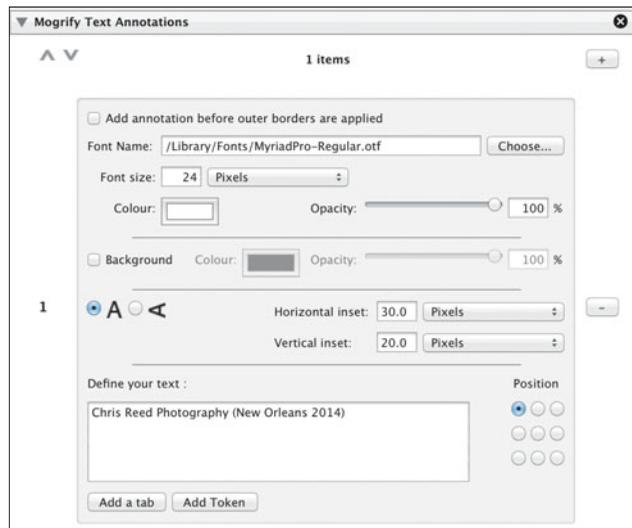


Figure 4.17 Set the inner border options as shown here.

- Now switch to the Mogrify Text Annotations panel (shown in Figure 4.18). Uncheck the “Add annotation before outer borders are applied” box. Next to the Font name field, click Choose. This part is a little odd—instead of giving you a list of installed fonts, it provides a list of the raw font files in your system fonts directory. Select a simple font—I usually go with Myriad because it ships with Adobe products and it’s nice and legible.

Set the font size to 24 pixels, the color to white, and the opacity to 100% (again, all defaults for me, but if they aren’t for you, go ahead and make the change). Set the font orientation to horizontal (the radio button with the letter A *not* on its side), the horizontal inset to 30 pixels, and the vertical inset to 20 pixels.

Figure 4.18 Set the text annotation options as shown here.



12. In the “Define your text” field, write the name of your group registration.

Again, in this example it’s “Chris Reed Photography (New Orleans 2014),” which is consistent with the filename I selected and what I wrote on the application form.

Select the text position radio button to place the text in the upper-left corner of the image (refer to **Figure 4.18**).

13. At the top of the Mogrify Text Annotations panel, click the + button to add another text field. You see everything you just typed disappear, but don’t worry—it’s still there. Use the arrow icons on the left side of the panel to switch between text fields (refer to **Figure 4.18**).
14. In the new text field, apply the same settings as in the first text field (from Steps 11–12) except change the vertical inset to 15 pixels and change the text position radio button to place the text in the lower-left corner of the image.
15. Under the “Define your text” field, click Add Token (see **Figure 4.19**). The Select a Token dialog box appears. From the Basic Tokens drop-down list (see **Figure 4.20**), select “Leaf name of EXPORTED file.”
You’re taken back to the Mogrify Text Annotations panel and the variable {exportedName} is added to the text field.

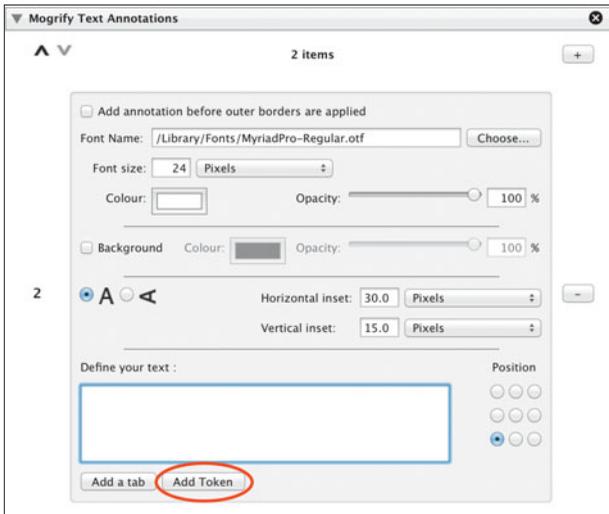


Figure 4.19
Click Add
Token under
the “Define
your text” field
as shown here.

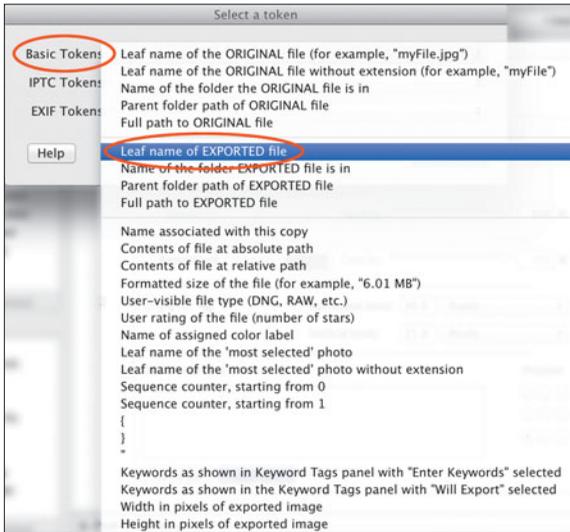


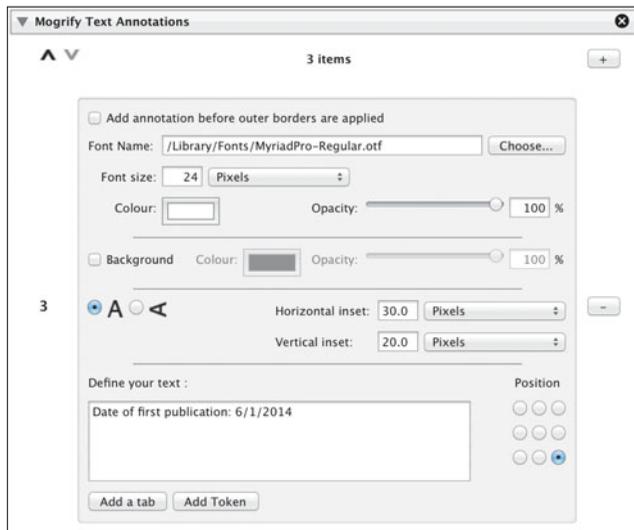
Figure 4.20 Select
“Leaf name of
EXPORTED file” from
the Basic Tokens
drop-down list.

Note

This procedure assumes that your image title for registration purposes is the filename. Because the LR/Mogrify plugin lets you put whatever text variables you like, you could just as easily use the IPTC Headline field (which many photographers use as a title field). The important thing is that whatever ends up on the resulting images is consistent with what you put on the continuation sheet, so that the Copyright Office examiner (and perhaps a judge down the road) can determine which images are described on the registration certificate.

- Click the + button in the upper-right corner of the Mogrify Text Annotations panel to add one more text field to your images. Apply the same settings as in Steps 11–12, except change the text position radio button so that the text will appear in the lower-right corner of the image. In the “Define your text” field, type “Date of first publication: [date]” where you insert the date the image(s) were published (see Figure 4.21).

Figure 4.21 Set the first text annotation as shown here.



CAUTION!

This process only partially automates the creation of your deposits. Because there is no “date of first publication” metadata field, the portion of this process that adds the date to the image files is partially manual. For example, if you had batches of images within your group that were published on June 1, June 7, and June 25, you would have to export the June 1 batch, change the date in your export settings, and then export the June 7 batch, and so on. *Be very careful to also change the sequence start number* (see Step 5) for your subsequent batches so that you don’t inadvertently overwrite your first images—Lightroom will start at 1 unless told otherwise in the export settings.

One other option may be to use some other metadata field to contain the date of first publication and then use that metadata variable in the text field. I don’t personally practice this approach because I want to preserve the metadata fields for their intended purpose, but if you’re interested in finding a way to make this process a little more automated, that’s one way to do it.

17. When you're finished, save your export settings as a preset by clicking the Add button at the bottom of the Preset box (see **Figure 4.22**). Give your preset a name (I called mine "Copyright Registration") and click Create (see **Figure 4.23**).

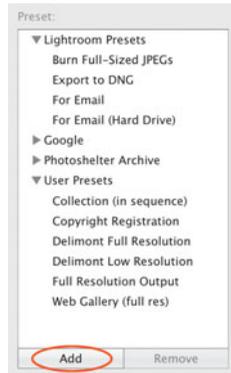


Figure 4.22 Save your preset so you don't have to go through all this setup work again!



Figure 4.23 Give your preset a name.

Now for future registrations all you'll have to do is update a few fields (the name of the group of the images, the date of first publication, and the folder where you want Lightroom to save your images).

18. Click Export to export the image you selected in Step 1 (it'll be in the folder you picked in Step 2). You should end up with an image that looks similar to the one shown in **Figure 4.24**. If you don't, go back and retrace the steps in this section. If it worked, you can go ahead and delete the image because it was just a test.



Figure 4.24 Your export preset should create an image that looks similar to this, with a black border and the text annotations as shown here.

19. Now that you've saved and tested the preset, it's finally time to export your images. Select the first batch of images from your group that were published on the same day.

It may be one image, or it may be multiple images, but the key here is to make sure that all the images you select were published on the same date. Once you've made your selection, select Export from the File menu within Lightroom to launch the Export dialog box.

20. In the Export dialog box, select the preset that you created in Step 17 and scroll down to the Mogrify Text Attributes panel. Make sure the name of the group is still accurate, and then use the arrow icons on the left side of the panel to cycle through the other text elements until you get to the one you created in Step 16 (the one where you typed "Date of first publication"). Change the date here to reflect the date that the images selected in Step 19 were published (see **Figure 4.25**). Click Export.



Figure 4.25 Change the date as shown here to reflect the date of publication for the images you select. In this example, the images were published on June 27, 2014.

21. Repeat Steps 19 and 20 for each subset of images within your group—that is, select the next batch of images within the group that were published on the same day (Step 19) and change the text annotation so that the date is properly rendered on the exported images (Step 20).

Be sure to also change the sequence start number (see Step 5) for each export so that you don't overwrite any files. For example, if your first subset contains 25 images, when you repeat the process for the next subset, you'll want to change that Start Number in the File Naming panel to 26.

22. When you're finished exporting all your images, check the folder where Lightroom has saved the files, and check the file count.

You want to make sure that the total number of files there is the same as the number of images you provided in the Previous or Alternative Title field (see "Space 1," earlier in this chapter). The Copyright Office will look to make sure that your deposit copies match the information provided on the application, and submitting an incomplete deposit is a quick way to have your application rejected, so it pays to take the time now to get it right. You should also make sure that the filenames

match the titles you provided on the continuation sheet, and that the numbers on the continuation sheet (the ones on the left side of the form) match the sequence numbers on the files you just exported.

23. Once you're finished exporting the files, burn them to a CD or DVD so you can send them to the Copyright Office with your deposit. Then, on the label-side of the disc, write your name, address, and phone number; the title of the group of images; and the number of images in the group.

Preparing the Payment and Mailing the Application

Now you have a completed Form VA, a completed continuation sheet, and a CD or DVD containing all your images, annotated with the date of first publication on each one. The only part that's missing is the application fee.

You must include either a check or money order with your application for the full amount of the fee, payable to the Register of Copyrights. As of this writing, the fee for Form VA is \$85, but always check the Copyright Office website at www.copyright.gov to ensure you have the most up-to-date fee information. Although not required, I typically paperclip my check to the form to help make sure that the check doesn't get lost when the mail gets opened. (I recommend against stapling because it could damage the application form when the Copyright Office pulls off the check, which could make it more difficult to process.)

Tip

Remember that the effective date of registration is the date that the Copyright Office receives the application, payment, and deposit, in acceptable form (not the date that the Copyright Office processes it). Because of this, it's important to get everything right the first time; otherwise, your effective date might get pushed out. For example, if you send in your application, but the check isn't for the full amount of the registration fee, the Copyright Office will contact you and ask for a new check, but the effective date will become the date they receive the new check.

I highly recommend that you put the disc containing your images in a hard plastic case rather than a plastic or paper sleeve. I've found that discs sent without adequate packaging often get crushed or can snap in half as they

go through mail sorting equipment. For that same reason, I also strongly recommend sending your application in a small box, rather than a padded envelope.

The U.S. Copyright Office is located on Capitol Hill in Washington, D.C., and because of that, its mail is subjected to intense security screening procedures, including irradiation. It's also subject to lengthy delays getting from the post office to the Copyright Office's mail intake facility. You can shorten that time somewhat by using an express courier such as UPS or FedEx. Although it costs a little more than regular mail, the packages are traceable and I've found they're less likely to get damaged on their way to the Copyright Office. If you do use regular mail, consider sending it using delivery confirmation or by certified mail with a return receipt. Because the effective date of your registration is based on the date everything is received by the Copyright Office, it's useful to have that date for your records.

Tip

Make a copy of everything that you send to the Copyright Office before you package it up. In the event that your application materials get lost, it can be very helpful to have an exact duplicate in your files. In addition, if the Copyright Office contacts you about your application, it can be helpful to see exactly what the Copyright Office staff are looking at when you speak with them.

When you're ready to send your application materials, mail them to:

U.S. Copyright Office—VA
Library of Congress
101 Independence Ave. SE
Washington, DC 20559

What Happens Next?

So, you've mailed off your application for registration. Now what?

Just like filing an electronic application, you wait. Track your package using the courier's website and, after it has been delivered, print out the page that has the date and time of delivery and keep it with your copy of the application. It's easy to overlook this step, but having evidence of delivery can be very helpful if your application gets misplaced once it makes it to the Copyright Office (it doesn't happen often, but it does happen).

Ideally you won't hear anything from the Copyright Office until your certificate arrives in the mail, but don't expect that to happen anytime soon. As of this writing the processing time for paper applications is 7 to 14 months, and perhaps even longer to get into the Copyright Office's online database (www.copyright.gov/records) because the process of moving the data from the application to the database is still done by hand.

If there is a problem with your application, you'll hear from the Copyright Office likely by mail or email. Sometimes the copyright examiner will call. The next chapter covers how to deal with the Copyright Office if and when a representative gets in touch with a problem.

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