

How To Perform Certified Copyright Searches

By David Vallieres, Editor, **The Public Domain Report**

How Certified Copyright Searches Are Performed

Copyright searches are done by specialty firms, publishers and attorney's in copyright issues but, a little known secret is that you can go directly to the Copyright Office and request a copyright search and even have it certified by the CO staff.

You can also search online now, but the results are NOT as accurate as having the Copyright office perform this for you. The online search should not be used as a definitive answer to your copyright question, but only as a guide. This is the link:

<http://www.copyright.gov/records/cohd.html>

My suggestion is to use the online search as a general guide and then, if it appears your work (if it's found) is in the public domain to get the Copyright Office to conduct a search as well. The important thing to remember is that if you're going to use the work in a commercial venture to make sure you get a written 'certified' copyright report from the US Copyright Office.

If you are not located near the Copyright Office you can follow the instructions below, order your searches by phone and mail and have your Certified Copyright Search report sent directly to your private residence or office! In addition it will cost you less than 75% of what most copyright search firms and attorney's charge and you have it days sooner.

COPYRIGHT SEARCHES BY THE COPYRIGHT OFFICE

Upon request, the Copyright Office staff will search its records at the statutory rate of \$20 for each hour or fraction of an hour consumed. The good news, if you give the staff enough information about the work you want researched it shouldn't cost you more than \$20! Certified reports cost just an additional \$20.

The first step in getting the work you certified is putting together as much information as possible about the work.

The more detailed information you can furnish with your request, the less time-consuming and expensive the search will be. Provide as much of the following information as possible:

- ❖ The title of the work, with any possible variants;
- ❖ The names of the authors, including possible pseudonyms;
- ❖ The name of the probable copyright owner, which may be the publisher or producer;
- ❖ The approximate year when the work was published or registered
- ❖ The type of work involved (book, play, musical composition, sound recording, photograph, etc.);
- ❖ For a work originally published as a part of a periodical or collection, the title of that publication and any other information, such as the volume or issue number, to help identify it;
- ❖ Motion pictures are often based on other works such as books or serialized contributions to periodicals or other composite works. If you desire a search for an underlying work or for music from a motion picture,

you must specifically request such a search. You must also identify the underlying works and music and furnish the specific titles, authors, and approximate dates of these works and;

- ❖ The ISBN, LOC registration number or any other copyright data.

Step number two is to call the desk of the CO research department at: (202) 707-6850. You will be connected to one of the CO's research specialists.

Tell them you would like a copyright search performed on a work and would like an estimate of the cost. They will ask you what information you have about the work (as mentioned above). They won't want specifics, just if you know the Title, Author, etc. The more information you can give them the better. Be sure to tell them you want a written report. If not, they will assume you want a verbal or oral report and arrange time for you to call back and get the verbal report. Also make sure to tell them you want a certified written copy of the search.

Certified searches are most frequently requested to meet the evidentiary requirements of litigation. But, you must ask for this. Copyright searches are not automatically 'certified' even if completed by the CO staff.

The Copyright Office staff will also search its indexes covering the records of assignments and other recorded documents concerning ownership of copyrights for the standard hourly fee. The reports of searches in these cases will state the facts shown in the Office's indexes of the recorded documents, but won't offer an interpretation of the content of the documents or their legal ramifications.

Based on the information you furnish, the staff will provide an estimate of the total search fee. Having this information ready will greatly reduce the time spent by the CO staff. You can decide at this time to let the CO staff complete the search or to relinquish.

If for some reason the search takes longer than estimated they will let you know and you can send additional fund while they continue their search. If it takes less time than estimated, they will send a partial refund of the estimated amount back to you (although in 72 searches I've completed to date, no report ever took less time than estimated).

If you decide to have the Office staff conduct the search, you should send the estimated amount with a letter (see example below) restating the request to:

Reference and Bibliography Section, LM-451
Copyright Office Library of Congress
Washington, D.C. 20559

The Office will then proceed with the search.

When the search is completed (usually within 4-6 weeks) they will send you a typewritten report (plus certified, if that's what you requested) or, if you prefer, an oral report by telephone.

If you request an oral report, you need to provide a telephone number where you can be reached during normal business hours (8:30 a.m. - 5 p.m. Eastern time) by the CO staff.

When you receive the written report you will want to read it carefully and look for the words, "No renewal found" (see example at end of this report). This will give a good clue that the work is now in the public domain. Of course, there is no complete assurance that someone won't come forward, after recognizing you have republished the work, and demand royalties or other compensation, or cessation of publication. Usually it is the family of the original author of the work

who will object. Having the written certified copyright search will help you establish that protection has expired, but will not automatically guarantee it.

If you are ever uncertain of the results of the search results you receive or need help dealing with anyone claiming rights to a work you are publishing always seek the advice of a competent attorney specializing in copyright issues.

ADDITIONAL ITEMS YOU MAY REQUEST

You may also request additional certificates, photocopies of deposits, or copies of Copyright Office records. Additional fees for these services will apply.

Well, there you have it. Quick and easy certified copyright searches from your desk. Nothing could be easier or quicker or less expensive.

LAST BIT OF ADVICE

In some instances the CO staff will be extremely busy and not get to the writing of your report within the 4-6 weeks mentioned. In one case I needed to move on a publishing project that included major portions of the work being researched and I had not received the report yet. I called the copyright office and asked them for an update.

The CO staff was very gracious and a research specialist got back to me the same day with an oral report at no extra charge. I got the information I needed to move the project forward and received the written report several weeks later in the mail.

Request Letter Example:

YOUR NAME

Your Street Address
City, State Zip
Tel (315) XXX-XXXX

December 5, 1997

Reference and Bibliography Section
Copyright Office
Library of Congress
Washington, D.C. 20559

Dear Madam or Sir:

I spoke to a research specialist today who quoted me an estimate of \$40.00 to investigate the copyright status of two books. I would like a written **certified** report of the results of your search. I am enclosing an additional \$20 for a certification of the report. Total enclosed \$60 (check).

The books are:

TITLE #1: Thought Transference
SUB-TITLE: or Radio-Activity of the Human Mind
AUTHOR: Edmund Shaftesbury
PUB DATE: 1926
PUBLISHER: Ralston University Press, Meriden, Conn.

TITLE #2: The Great Psychic
SUB-TITLE: The Master Mind of The Universe
AUTHOR: Edmund Shaftesbury
PUB DATE: 1925
PUBLISHER: Ralston University Press, Meriden, Conn.

To assist you in your search: I believe that "Edmund Shaftesbury" is the pseudonym of Webster Edgerly, but I can't be absolutely sure of this. If you have any questions regarding this search please call me at 315.733.1383.

Please forward the completed certified written report to:

YOUR NAME, Address, City, State Zip

Thank you for your assistance in this matter.

David Vallieres (signed)

