Copyrighting Web-Based Software Applications
By Andrew Martin

There are a number of ways to protect the intellectual property in software, but by far, the most commonly used method for protecting software IP is to register the software code as a literary work with the Copyright Office. The process is generally pretty straightforward: gather the code, print it to PDF, and send it off to the copyright office with a note that you would like to register the code as a literary work. While there are some specific instructions regarding the deposit and how to protect any portions of the code that may be trade secret s (hint, stock up on markers), the process typically is not much more complicated than that.

If a company is seeking protection for a computer program delivered over the Internet, however, there are additional items to consider. For most computer-program copyrights, the Copyright Office takes the position that registering the source code as a literary work protects not only the code itself, but the screen displays that are created by the code. For websites, on the other hand, the Copyright Office specifically points out that while copyright registration will extend to protection of the format and positioning of the text and graphics of the website, the website content not otherwise identified in the application will not be included within the scope of the registration. So, for web-based software applications that contain elements of both websites and traditional coded software, it is recommended that the source code deposit be accompanied by screen shots of each web page that makes up the software application.

Keep in mind that when including screenshot materials, the application must adequately notify the Copyright Office of the purpose for inclusion of the screenshots to avoid confusion that can delay the application process. Also, there may be portions of the software that are not copyrightable, but that rather should be protected as trademarks or trade secrets. Experienced counsel can help avoid potential issues in the copyright application process that can delay the launch of a product and can help guide the developer to choosing the appropriate methods for protecting their important intellectual property.

About the author Andrew Martin:

As an associate attorney with extensive prior experience advising information technology start-ups, Andrew's practice focuses on finding solutions for his clients' intellectual property issues. Due to his extensive experience in the software and technology industries, Andrew understands both the practical and legal issues involved in IP licensing agreements and disputes. In addition to licensing, Andrew helps his clients find new ways to use existing technologies to assist his clients in areas such as data privacy compliance. Andrew uses his diverse background which includes founding a record label and working for a world-wide concert promoter when counseling the firm's entertainment clients.

Get in touch: amartin@scottandscottllp.com | 800.596.6176

Click here for a complimentary subscription to Scott & Scott, LLP *Business & Technology Law* Newsletter.