**ANNOTATIONS AND COMMENTS**

This instruction should be used for works as to which no presumption of validity applies. 17 U.S.C. § 410 (“In any judicial proceedings the certificate of a registration made before or within five years after first publication of the work shall constitute prima facie evidence of the validity of the copyright and the facts stated in the certificate. The evidentiary weight to be accorded the certificate of a registration made thereafter shall be within the discretion of the court.”); *see also M.G.B. Homes, Inc. v. Ameron Homes, Inc.*, 903 F.2d 1486, 1488 n.4 (11th Cir. 1990).

An author has a valid copyright in an original work at the moment it is created and fixed in a tangible medium of expression. *See* 17 U.S.C. § 102; *McCaskill v. Ray*, 279 Fed. Appx 913, 916 (11th Cir. 2008) (citing *Original Appalachian Artworks, Inc. v. Toy Loft, Inc.*, 684 F.2d 821, 823 n.1 (11th Cir. 1982)). “Copyright registration is not a prerequisite to copyright protection. Moreover, registration of a copyright ‘is not obligatory, although registration is a prerequisite to an infringement suit in certain circumstances and also is a prerequisite to certain infringement remedies.’” *Id*. (internal citation omitted); *see also* 17 U.S.C. §§ 408, 411, 412.

A certificate of copyright registration is refused only if it falls outside the broad category of matter eligible for copyright registration. *See* 17 U.S.C. § 410.