

## QUESTIONNAIRE

### A. COPYRIGHT REGISTRATION AND RECORDATION

1. What is the name and legal status of the copyright registering/recording body in your country?

Answer : According to the *Temporary Measures on the Voluntary Copyright Registration of Works* issued by National Copyright Administration of China, the copyright registering/recording bodies are National Copyright Administration of China and copyright offices of provinces, autonomous regions and municipalities. Assigned by National Copyright Administration of China, Copyright Protection Center of China shall be responsible for its service of copyright registration. National Copyright Administration of China is the administrative department for copyright issues under the State Council, responsible for copyright administration nationwide. Copyright offices of provinces, autonomous regions and municipalities are the administrative departments for copyright under the local government. =Copyright Protection Center of China is an institution directly under National Copyright Administration of China.

2. Please provide full contact details of the copyright registering/recording body, including location of its offices, with indication of the hours they open to public.

Answer:

The location of Copyright Protection Center of China (Hereinafter referred to as "CPCC") is: 3F, West block, Yonghe Plaza, No.28, Andingmen East Street, Dongcheng District, Beijing, China. The postal code is 100007.

CPCC opens to public from Monday to Friday, 8:30am to 11:30am and 1:00pm to 4:30pm.

3. Does the copyright registering/recording body have a webpage and e-mail address? If so, please list them.

Answer: The Website of CPCC is [www.ccopyright.com](http://www.ccopyright.com).

No more details for others.

4. Is the copyright registry interconnected to any other copyright data system?

Answer: Not now.

5. Please list relevant national legislation, including regulations, regarding copyright recordation/registration.

Answer: According to the present legislation, copyright registration in China includes voluntary registration and mandatory registration. Voluntary registration includes works registration, the registration and recordation of the copyright exclusive licensing contracts and contracts of copyright assignment, the registration of the software copyright and the exclusive contracts or contracts of assignment; mandatory registration includes the registration of the contracts on the publication of imported audiovisual products and the registration of the pledge contract on copyright etc. The relevant national legislation are *Regulations for the Implementation of the Copyright Law of the PRC*, *the Temporary Measures on Voluntary*

*Copyright Registration of Works, the Note on Registration of the publication of imported audiovisual products, the Regulation on the Protection of Computer Software, the Measures for the Registration of Computer Software Copyright, Guaranty Law, Property Law, the Measure of the registration of pledge contract on copyright, etc.*

6. What kind of copyright works can be registered/recorded? Is the registration/recording process different for each type of copyrighted work? Please describe the differences, if any.

Answer: Various types of works protected by *the Copyright Law of the PRC* can be registered. The registration processes for each type of copyrighted works are basically the same.

7. Can the subject matter of related rights (e.g., performances, broadcasts, sound recordings) also be registered/recorded? If yes, is there a different registration/recording process than for works protected by copyright?

Answer: The registration of works includes registration of sound recording. There's no difference between the registration process of sound recording and other works.

8. Is there a possibility to record the transfer or licensing of copyright/related rights?

Answer: Yes.

9. Is there a possibility to record a security interest in the copyright or related right? If so, what are the legal requirements and effects of such recording?

Answer: The recording of a security interest in the copyright or related right is the registration of pledge contract on copyright. The legal requirements includes: requesting the pledgor and the pledgee to conduct the registration simultaneously; the pledgee is the legal copyright owner; the master contract(s) and guarantee contract(s) are legally effective, the materials submitted are complete, etc.

The copyright pledge contract registration is the effective condition.

Note: According to the newly enacted Property Law, the *Measure of the registration of pledge contract on copyright* is under the process of revision. The distinct difference is in the coming new Measure, the registration is the effective condition for the right of pledge.

10. What is the legal effect of registration?

Answer: The subject matter of registration is the primary evidence.

11. Is copyright registration/recording mandatory or voluntary in the following circumstances?

- (a) Recognition of creation?
- (b) Transfer of rights?
- (c) Initiation of judicial proceedings?
- (d) Other changes in title/ownership (such as leasing)?

If your country has a mandatory registration/recording system, please describe any legal consequences for non-compliance.

Answer: In the above-mentioned situation, the registration is not mandatory.

12. Do courts in your country recognize copyright registrations affected by public authorities in other countries? If yes, is recognition automatic or is a local procedure required to validate or otherwise give effect to the foreign registration?

Answer: According to the interpretation of the Chinese Supreme People's Court, copyright registration certificate provided by the litigant can be used as evidence. Therefore, the copyright registration certificate abroad is also the recognized evidence. However, according to the provision of the Supreme People's Court, if the evidence provided by a litigant concerned is formed outside the territory of the People's Republic of China, such evidence shall be authenticated by the notarial organ of the host country and verified by the embassy of the People's Republic of China in this country, or according to the procedure in respect of relevant treaty between the People's Republic of China and this country.

13. What are the requirements for registration?

- (a) What are the mandatory elements of the request for registration/recording?
- (b) Does the request need to be submitted in a specific form? Can the request be submitted by the post? Can the request be submitted electronically?
- (c) Is there a deposit requirement, that is, must a copy of the work be submitted with the registration request? If so, can it be submitted in digital form?
- (d) Is there a registration/recording fee? If so, how much is the registration/recording fee?
- (e) What is the average time taken to complete the registration/recording process?

Answer: (a)The applicants shall enjoy the copyright, submit the complete materials which meet the requirements.

(b) The submission of specialized forms is required. Currently, the applicant should fill, submit the forms online and meanwhile print the forms, send by post or hand in directly to CPCC.

(c) A copy of work sample is required. Digital format is also accepted.

(d) Currently, the applicants should pay for some types of registration. A software registration costs ¥300RMB, generally.

(e) It takes an average of 30 working days to complete the registration process.

14. Are foreigners allowed to register/record their creations? Are people without legal residence in your country allowed to register/record their creations? Is there a different registration/recording process for domestic as opposed to foreign works or objects of related rights?

Answer: In China, regardless of legal residence, foreigners are allowed to apply for works and software registration. There's no different registration process for local people and foreigner.

15. Are the files stored in digital form?

Answer: The CPCC registration system can store the registration files in digital format.

16. What criteria are followed for classification of the registrations/recordations (including chronology/name of right owner/name of work or related right/type of work or subject matter of related rights, etc)? Is it possible to correct or update relevant information?

Answer:

Generally, the provision of information about the creation and copyright owner's identification is required, such as type of work(s), name of work(s), name of right owner (including authorship of works), date of completion of work, date and location of first publication of work, etc. After registration, the applicant can modify certain basic information.

17. Does the system have a search facility?

Answer: Yes.

18. Is it accessible by the public? Is the search facility available online?

Answer: Currently CPCC registration system is not yet open to the public.

19. Is access granted to the work registered or its copies?

Answer: Only the access from the applicant, judicial and administrative organs is granted to the work registered or its copies.

20. Does the general public have access to other documents submitted or to any information regarding the work registered/recorded?

Answer: The general public has access to information regarding the registration application form. In addition, the public can search basic information concerning the registration from the website of CPCC, such as the work registration number, date of registration, name of work, type of work and name of right owners, etc.

21. Does your country have legislation dealing specifically with "orphan works", i.e. works in respect of which the right owner can not be identified and/or located (e.g., a compulsory license or a limitation on liability)? Please briefly describe the main elements of that legislation.

Answer: No.

22. Independently of whether your country has legislation on the subject, are there industry practices in your country aimed at identifying and/or locating the copyright owner of "orphan works"?

Answer: No.

23. Does the registering/recording body play a relevant role in the legislation or practice dealing with "orphan works"?

Answer: No.

24. Is there a system to identify and list recorded/registered works or objects of related rights in the public domain? Is that system automated? Is that information made available to the public?

Answer: No.

25. If your country has a public registration/recordation system, do private institutions or initiatives exist that provide additional mechanisms to access registered/recorded information from the public system?

Answer: No.

26. Please provide statistics on following registrations/recordations:

- (a) Number per statistical period (last five years)
- (b) Number per nationality (last five years)
- (c) Number of inquiries/requests for information filed per statistical period (last five years).
- (d) Number of recordation/registrations whose subject matter has entered the public domain. Global figure/Figure per statistical period (last five years)

Answer:

(a) Software registration:

In 2005, the number of software registration is 18449;  
 In 2006, the number of software registration is 21699;  
 In 2007, the number of software registration is 24676;  
 In 2008, the number of software registration is 45928;  
 In 2009, the number of software registration is 68186;

Works registration:

In 2005, the number of works registration is 2241;  
 In 2006, the number of works registration is 3040;  
 In 2007, the number of works registration is 4525;  
 In 2008, the number of works registration is 5059;  
 In 2009, the number of works registration is 7409.

(b) No statistics.

(c) In the last five years, the number of inquiries/requests for information filed regarding software registration is 25546, the number regarding works registration is about 400.

(d) No statistics.

## B. LEGAL DEPOSIT

27. Does your country have a legal deposit system/s in place?

Answer: There is publication deposit system in China.

28. Please list relevant national legislation regulating the legal deposit.

Answer: The relevant national legislations are *Regulations on Publication Administration* and *Regulations of the People's Republic of China on the Administration of Audio-Visual Products* formulated by the State Council. With respect of the regulations, a publishing entity shall, before distributing its publications, gratis submit a sample to the National Library of China, the Archives Library of Chinese Publications and the administrative department for publication under the State Council in accordance with the relevant provisions of the State.

29. Is the legal deposit mandatory or voluntary in your Country? If mandatory, what are the legal consequences in case of non compliance?

Answer: It is mandatory in China. According to the above-mentioned regulations, a publishing entity does not submit a sample of its publication in accordance with these Regulations, the party concerned shall be ordered by the administrative department for publication to make a rectification, and shall be imposed upon a warning; if the case is serious, it shall be ordered to cease its business within a time limit for rectification or its license shall be revoked by the original organ issuing the license.

30. What are the functions performed by your National legal deposit system (e.g. preservation of cultural heritage; collection of statistical information, etc)?

Answer: The deposit system is mainly to protect the integrity of the cultural heritage of press and publication. The statistics and information of publication provides service for the publication and distribution industry. It also provides sample support to the administrative departments of press and publication for monitoring the sample quality.

31. Is there any connection or interaction among legal deposit and copyright protection?

Answer: There' s no such regulation in the law recently.

32. Does your national legislation have any provision in regard to making copies or adapting formats of deposited works for preservation purposes? If so, please clarify under which terms and conditions.

Answer: No.

33. What is the object of legal deposit? Please list all types or categories of material subject to legal deposit (e.g. Print Material, such as books, serials, government publication; Non-Print Material, such as music and audiovisual works, broadcast material).

Answer: The objects of legal deposit are formal publications, such as books, audiovisual works, electronic publications, serials and newspapers, etc.

34. Does legal deposit apply upon production/printing of content or after its distribution? Does legal deposit apply to material printed in your country but distributed abroad?

Answer: In accordance with the regulation, a publishing entity shall submit sample of publication within 30 days after the publication. Legal deposit doesn' t apply to materials printed in China but distributed abroad.

35. Is there any type or category of material exempted from legal deposit for policy reasons?

Answer: No.

36. Is there any specific regulation in regard to material published in electronic format? If so, does the regulation distinguish between on-line and off-line material? Please clarify relevant differences.

Answer: General Administration of Press and Publication of China formulated *Regulations on Publishing Administration of Electronic Publications*. Electronic publishing entities submit only the offline media samples.

37. How many copies does the depositor have to deposit? Are there special conditions for limited or *de luxe* editions?

Answer: The depositor needs to deposit a set of copy, the same for the limited or *de luxe* editions.

38. Who is/are the subject/subjects responsible for delivering the legal deposit?

Answer: Publishing entities.

39. What are the time requirements for legal deposit?

Answer: A publishing entity shall submit sample of publication within 30 days after the publication.

40. Is there a payment or compensation involved in legal deposit? If so, Please indicate its amount.

Answer: No payment or compensation is involved in legal deposit.

41. What is/are the entity/entities responsible for acting as legal depository?

Answer: They are National Library of China, the Archives Library of Chinese Publications and General Administration of Press and Publication of China.

42. Does the general public have access to legally deposited materials? If so, please explain under which terms and conditions.

Answer: The deposited materials are not open to the public, but deposit institution could provide the state organs with enquiry service of statistics and samples.

43. Do/does the depository/depositories provide publicly available search facilities? If so, are they accessible on-line?

Answer: No.

44. Is legal deposit linked to any number or code? Is there any relation with the International Standard Books Number (ISBN) with the International Standard Serial Number (ISSN) and other such codes?

Answer: Yes, but it is unrelated to ISBN and ISSN.

45. Please provide statistics on the number of deposits per year for the following items (last five years); a) print material; b) musical works; (c) audiovisual works.

Answer: The following data is from the Archives Library of Chinese Publications. The library collects statistical indicators of audio-visual samples, classified according to vector forms, such as magnetic media (AT), electronic resources (EP), audio-visual resources (AV).

Print material:

In 2005: 190,000 categories, 270000 copies;

In 2006: 195,000 categories, 280000 copies;

In 2007: 200,000 categories, 285000 copies;

In 2008: 210,000 categories, 310000 copies;

In 2009: 220,000 categories, 320000 copies.

Audio-visual and electronic publications:

In 2005, Audio-visual (AT): 3784 categories; electronic resources (EP): 794 categories;

AT (magnetic tape): 893 categories;

In 2006, Audio-visual (AT): 6681 categories; electronic resources (EP): 2265 categories;

AT (magnetic tape): 1759 categories;

In 2007, Audio-visual (AT): 11028 categories; electronic resources (EP): 2991 categories; AT (magnetic tape): 1931 categories;

In 2008, Audio-visual (AT): 17896 categories; electronic resources (EP): 8713 categories; AT (magnetic tape): 3299 categories;

In 2009, Audio-visual (AT): 12676 categories; electronic resources (EP): 7723 categories; AT (magnetic tape): 1888 categories.

In total: 84502 categories.