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**SURVEY OF NATIONAL LEGISLATION ON VOLUNTARY REGISTRATION
SYSTEMS FOR COPYRIGHT AND RELATED RIGHTS**

prepared by the Secretariat

SURVEY OF NATIONAL LEGISLATION ON VOLUNTARY REGISTRATION SYSTEMS FOR COPYRIGHT AND RELATED RIGHTS

I. INTRODUCTION

A. Background

During the seventh session of the Standing Committee on Copyright and Related Rights (SCCR) which took place from May 13 to 17, 2002, several Member States proposed that the Secretariat prepare studies on, among other issues, voluntary copyright registration systems. For the eighth session of the Committee, the Secretariat prepared a list of all the new issues proposed for future review and possible action by the Committee. The list of new issues, contained in the document entitled “A short description of possible subjects for future review by the Standing Committee” (SCCR/8/2) included reference to “voluntary recordal systems”, as follows: “Article 5(2) of the Berne Convention states that “the enjoyment and the exercise of copyright shall not be subject to any formality. This is one of the fundamental principles of the Convention. It establishes that protection may not be made conditional on the observance of any formality. However, in certain countries party to the Berne Convention, the national copyright law provides facilities to national and/or foreign creators and copyright owners for registering their works through a voluntary recordal system (...).”

At the eighth session of the SCCR, which took place from November 4 to 8, 2002, several Member States expressed support for a study on the issue of voluntary recordal systems. It was stated that studies in this area could help Member States to systematize the issues involved and get a better sense of whether and how voluntary recordal systems might further their national interests. Some delegations highlighted the importance of the issue in connection to the fight against piracy.

Based on these discussions in the seventh and eighth sessions of the SCCR, the WIPO Secretariat has prepared a comparative study of the legislation and practice in certain Member States concerning voluntary copyright registration systems.

B. The International Legal Framework

The prohibition of formalities for copyright protection is the result of an historical process. Before the 1886 Berne Convention for the Protection of Literary and Artistic Works (the 1886 Act of the Berne Convention) entered into force, each country had its own rules for recognition of copyright in a work. Consequently, authors had to comply with formalities on a country-by-country basis. The Berne Convention introduced the principle that authors in Union countries need only comply with the formalities imposed by the country of origin of a work. This rule was replaced in the 1908 Berlin revision of the Convention by the current principle of formality-free protection, reflected in Article 5(2) of the present Paris Act 1971, which reads as follows:

The enjoyment and the exercise of these rights shall not be subject to any formality; such enjoyment and such exercise shall be independent of the existence of protection in the country of origin of the work (...)

Formalities are conditions or measures which must be fulfilled in order for the work to enjoy copyright protection. Formalities do not include conditions related to the creation of the work (such as the substantive condition that a production must be original in order for it to qualify as a protected work) or the fixation thereof (a possible condition under national law). The registration and deposit of the original or a copy, and the requirement that a notice of copyright be placed on the work, are typical examples of formalities. According to the Guide to the Copyright and Related Rights Treaties Administered by WIPO¹ “if registration only has the effect of a rebuttable presumption that the facts registered are valid, it is not a formality (unless it is still applied in a way that, in spite of the original legal regulation, it becomes a *de facto* formality, because, for example, courts only deal with any infringement case if a certificate of such a registration is presented). Also, if deposit is a mere administrative obligation (with the objective of maintaining an appropriate national library or archive of published works) with some administrative sanctions for non-fulfillment, leaving the possibility of enjoyment and exercise of copyright intact, it is not against the principle of formality-free protection.(page 41)”

Formality-free protection is closely linked to the principle of independence of protection in Art. 5 (2) of the Berne Convention: “Such enjoyment and such exercise shall be independent of the existence of protection in the country of origin of the work.” The most relevant example of the case where a work is not protected in the country of origin, but may be protected in the country where protection is claimed is where, in the country of origin, a formality is applied as a condition of protection. This is possible, since, under the Berne Convention² it is not an obligation in the country of origin to apply the Convention to domestic works, and thus formalities may be prescribed for them. However, as a consequence of the application of the two principles mentioned, no formalities may exist in the country foreign Union country where protection is claimed.

In the field of related rights, the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (the Rome Convention, 1961) provides that phonograms are protected abroad without the need to comply with any formality. Nevertheless, if, as a condition of protecting the rights of producers of phonograms or of performers in relation to phonograms, a country requires compliance with formalities, these are fulfilled if all commercial copies of the published phonogram or its packaging bear a notice consisting of the symbol "P" (the letter P in a circle), accompanied by the year date of the first publication (article 11 of the Rome Convention). The Phonograms Convention concluded in 1971 contains in its article 5 a similar provision. It should be noted that article 62.1 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and article 20 of the WIPO Performances and Phonograms Treaty (WPPT) contains the same principle of formality-free protection.

While respecting the principles established in the Berne Convention, several Berne Union members have established national registration systems for copyright and sometimes also for related rights. In the view of these Member States, registration facilitates the exercise of copyright and related rights, by providing right owners with a simple and effective means to clearly establish authorship and/or ownership of rights. In this context, registration is seen as contributing to the protection of moral and economic rights and the fight against

¹ Mihaly Ficsor. Guide to Copyright and Related Rights treaties administered by WIPO, Geneva 2003. WIPO Publication No. 891 (E)

² Art. 5 paragraph (3)

piracy. On the other hand, by helping to identify works and other subject matter, as well as the corresponding authorship and/or ownership, registration can facilitate access to and use of protected subject matter. Registration can also help to delimit the public domain (e.g., by providing information concerning expiry of the term of protection), and consequently facilitate access to creative content for which no authorization from the right owner is needed.

National recordation systems often hold valuable information on creativity, both from a legal and economic standpoint. As an office of record, a copyright registry can make available certificates of registration, certified copies of registry documents that provide, with varying legal effect, important information on a work or other subject matter, its author or, through a documented chain of transfer, its present ownership. The information contained in national registries is not only valuable in legal and economic relations but may also serve the public interest by providing a source of national statistics on creativity and culture. Finally, national registries may constitute a repository of cultural and historical heritage, as they represent collections of national creativity, including works and other creative contributions.

Due to the wealth of information they manage and their experience on copyright matters, national registration bodies sometimes are given additional competences in the field of copyright and related rights, for example in areas such as mediation and arbitration, the granting and administering of compulsory licenses, and advising the Government or other public authorities on copyright issues.

II. ADVANTAGES AND CHALLENGES OF COPYRIGHT REGISTRATION

In recent years a number of issues have been raised concerning registration of copyright and related rights in the evolving digital environment. Some commentators have highlighted the important role that registration could play beyond its traditional functions in facilitating the exercise of rights, i.e. as a means to prove the existence of the work and/or its ownership. In this context the focus has been placed on the potential for registration to address some of the problems related to use of creative content. One concern relates to whether copyright imposes inappropriate burdens on users, including subsequent creators, in regard to works in respect of which the copyright owner can not be located (recently, such works have been termed “orphan works”). An often-cited example is where a creator seeks to incorporate an older work into a new one (whether visual, musical or textual) but despite her best efforts is unable to identify or locate the copyright owner(s). Moreover, identification of the work or other subject matter can be complex as digital technology allows content to be recast into a variety of forms, while multimedia production combines completely different types of subject matter into a single embodiment.

It is clear that rights management information has potential to facilitate the exercise of copyright and related rights in the digital environment. Under some models proposed, digital rights management (DRM) systems would be able not only to identify right owners and monitor use of content, but also process authorizations and remuneration³. However it is not clear whether current copyright registration systems might have a role to play in the design and operation of future DRM systems.

³ For a detailed explanation of Digital Rights Management (DRM) please refer to the Study on Current Developments in the Field of Digital Rights Management, prepared by Mr. Jeffrey P. Cunard; Mr. Keith Hill, and Mr. Chris Barlas: http://www.wipo.int/documents/en/meetings/2003/sccr/doc/sccr_10_2_rev.doc

In the digital environment users are no longer passive recipients of creative output but play an increasingly interactive role. Technology enables users to engage in a dynamic relation with both past and present creativity, blurring the previous boundaries between creation and use. In order to allow full interaction with past creations, peer users and creators, clearer delimitation of the public domain may prove important and useful. The uncertainty created by copyright in orphan works may have the potential to undermine the economic incentives to create by imposing additional costs on subsequent creators wishing to use material taken from existing works. Subsequent creators may be dissuaded from creating new works incorporating parts of existing works the owner of which cannot be found, because they cannot afford the risk of potential liability, including possible litigation. Further, the public interest may also be harmed when works cannot be made available to the public due to uncertainty over their copyright ownership and status, even where no living person or legal entity is asserting claims to ownership of copyright, or where the owner has no objection to such use.

In addressing the issue of orphan works, several alternatives have been proposed which confer a more or less central role on registration. Specific legislation has been enacted in at least one country (Canada) while others, like the United States of America, are in the process of assessing whether specific measures are needed⁴. The following trends illustrate the complexity of an issue where legal, technological and economic considerations intersect in a rapidly evolving scenario:

1) The copyright law in Canada has a specific provision permitting anyone who seeks permission to make use of a copyright work and cannot locate the copyright owner, to petition the Canadian Copyright Board for a license. The Copyright Board makes a determination as to whether sufficient effort has been made to locate the owner. If so, the Copyright Board may grant a license for the proposed use. It will set terms and fees for the proposed use of the work in its discretion and will hold the fees collected in a fund from which the copyright owner, if he or she ever makes a claim, may be paid. Under this approach a limitation on remedies is imposed on right owners whose works are orphaned. Users can be confident that their use of the work will not subject them to the full range of remedies for infringement under the Copyright Act, but only an amount akin to a usage fee. At the same time, copyright owners would not be concerned about the inadvertent loss of rights from failure to pay the fee or take other requisite action.

While there are many ways to locate a copyright owner it is clear that for countries where a registration system exists, search of registrations could play a conspicuous role in both locating the copyright owner and in assessing whether sufficient efforts have been made to that effect.

⁴ The US Copyright Office is examining the issues raised by “orphan works,” i.e., copyrighted works whose owners are difficult or even impossible to locate. The Copyright Office requested comments from all interested parties on whether there are compelling concerns raised by orphan works that merit a legislative, regulatory or other solution, and what type of solution could effectively address these concerns without conflicting with the legitimate interests of authors and right holders. Some of the alternative proposals for dealing with orphan works listed in this document are taken from background information made public by the Copyright Office in the course of this process.

2) While the Canadian experience demonstrates a “case-by case” or “ad hoc” approach, a “formal” approach for dealing with orphan works relies directly on registration. It could adopt several variants, as detailed in the Notice of Inquiry published by the US Copyright Office on January this year⁵. Under one of them the Copyright registering body will establish a filing system whereby the potential users would be required to file their intent to use a work, the owner of rights of which cannot be located. Under other models, right owners and not users, would be subject to registration of their claims.

Techniques like the Canadian mechanism and the possibilities under study in the United States must be tested against international obligations that prohibit formalities as a condition for the “enjoyment and exercise of copyright”. As explained above that test precludes proposals based on mandatory registration. Optional solutions are based on conferring additional benefits – such as damages or a specific penalty for willful use of the work – to right owners having registered their works or other related matter. In such a system if the user failed to check the registry she will be prevented from claiming that the work was orphaned. Another important issue is whether a time requirement should be imposed in order to be able to consider a work or other subject matter as orphaned. The search for clear, objective criteria for the determination of a certain lapse of time, or duration for deeming a work as “orphanable” appears as especially complex. The same can be said of other related issues, such as fixing the initial time for counting such a period.

III. Methodology and Structure

The present Survey of National Legislation on Voluntary Registration Systems for Copyright and Related Rights (“the Survey”) has been prepared by the WIPO Secretariat in cooperation with its Member States. A questionnaire covering the main issues related to voluntary registration systems for copyright and related rights was circulated to fourteen WIPO Member States from different regions of the world and having copyright registration systems. The Secretariat received replies from twelve Member States, namely: Argentina, Canada, China, Colombia, Germany, Hungary, India, Japan, Mexico, the Philippines, Spain, and the United States of America.

The Survey is of an informative, descriptive nature. It will help Member States to evaluate different systems of copyright registration and the prospects for evolution in the new digital environment, where an increasing need exists to easily identify creative content and monitor its use. In its present form, the survey includes detailed information on a number of issues, including, among others:

- The legal status of the registering body
- The subject matter of registration
- The scope of registration
- Requirements for registration
- Legal effects of registration
- Availability of information in tangible (deposit of works) and digital formats and
- Search facilities and statistical information.

⁵ <http://www.copyright.gov/fedreg/2005/70fr3739.html>

The information provided by Member States has been structured in three sections. The first relates to institutional questions, the second to legal issues and the third to procedure. The Survey contains three Annexes. The questionnaire is reproduced in Annex I , relevant statistics are contained in Annex II , and individual responses from the countries are presented in Annex III.

IV. SUMMARY OF RESPONSES TO THE SURVEY QUESTIONS:

The summary covers the information obtained from each country with respect to the institutional, legal and procedural questions..

I. Institutional questions

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

In most cases, the copyright registering bodies are institutions, which belong to the executive branch of the central government. In a few cases the registry is part of the legislative or judicial powers. In some cases the registration system is decentralized and registration is undertaken to a certain extent by local authorities.

In Argentina, the name of the entity responsible for copyright registration is the National Copyright Directorate, a National Public Administration body, attached to the Secretariat of Judicial Policy and Legislative Matters of the Ministry of Justice, Security and Human Rights.

In Canada, the Copyright Office is responsible for registering copyright. The Copyright Office is attached to the Canadian Patent Office and is under the jurisdiction of the Department of Industry.

In Mexico, the registering entity is the National Copyright Institute, Directorate of the Public Copyright Registry. This is a decentralized body attached to the Secretariat of Public Education.

In Colombia the National Copyright Registry belongs to the National Directorate on Copyright, which is an autonomous entity integrated into the Ministry of Justice and Internal Affairs.

In India the registering entity is the Copyright Office, Ministry of Human Resource Development.

In Japan, the Agency for Cultural Affairs, Ministry of Education, Culture, Sports, Science and Technology, (ACA) is the registering entity. A legal person, established under the provisions of the civil law, the Software Information Center (SOFTIC), has been created to register computer programs.

In Spain, the name of the registering entity is the General Intellectual Property Registry, comprising in turn the Central Registry, Territorial Registries and a Coordination Commission. The Central Registry is attached to the Ministry of Culture of the Central

Administration, with registration powers for those Autonomous Communities that have not had their own Registry transferred, while the Territorial Registries are attached to the Autonomous Communities to which said Registry has already been transferred. The Coordination Commission operates as a collegiate body for the unification of criteria.

In Germany, for anonymous and pseudonymous works a register called “Register of anonymous and pseudonymous works” is kept at the German Patent and Trademark Office, Federal Ministry of Justice.

In China, the copyright registering bodies are the China Copyright Protection Center (CCPC), the provincial copyright administrations, and the copyright administrations in the autonomous regions and the municipalities directly under the central government as well as the registering institutions designated by them. The CCPC is an institution under the National Copyright Administration of China (NCAC). It is entrusted by NCAC to take care of the registration of copyright of computer software and other works. The provincial copyright administrations in various provinces, autonomous regions and municipalities are responsible for the registration of copyright of various works except computer software, the China Copyright Protection Center being the software registration institution.

The registering entities in the Philippines are the National Library and the Supreme Court of the Philippines Library.

In the United States of America, the copyright registering body is the U.S Copyright Office, a department of the Library of Congress.

There is not a public copyright registration system in Hungary but, as in other countries, works can be recorded in the database of collecting societies. Two collecting societies undertake this activity in Hungary: Society Artijus Hungarian Bureau for the protection of Authors’ Rights and the Hungarian Society for the protection Audiovisual of Authors’ and Producers Rights, Filmjus. The other collecting societies do not keep any record of the works.

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

According to the responses, the copyright registering bodies are not interconnected to other copyright data systems provided either by public or private entities. The registration system of Spain provides interconnectivity between the Territorial Registries and the Central Registry, allowing the system to share information on a national basis.

II. Legal questions

1. *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.*

Most of the replies imply that all protected works can be registered and refer to the general notion of literary and artistic works, which, along the lines of the Berne Convention is defined in the national law by means of an open, non exhaustive list of productions in the literary, artistic and scientific domain.

Argentina, China, Colombia, Hungary, Japan, Mexico, the Philippines and the United States of America have expressly included in this list computer programs or computer software as copyright works subject to registration.

In Germany, only protected literary, scientific and artistic works that have been published as anonymous or pseudonymous works can be recorded. The only purpose of this voluntary registration is to apply the regular duration of copyright protection to anonymous and pseudonymous works

The registration process in the different countries is basically the same for each category of works. Nevertheless, for the registration of computer programs or software, a different process has been established in China and Japan as explained in the corresponding response (Annex III).

2. *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?*

In Canada, Japan, the Philippines and Spain the object of related rights can also be registered. The registration process is similar to the one set up for works.

In China there is, so far, no relevant provision in the Copyright law on the registration of the subject matter of related rights.

In Colombia phonograms are subject to registration. The procedure to that effect is different in that the information requested from the right owner is not the same, as detailed in the corresponding response (Annex III). In Mexico videograms, phonograms and books are also subject to registration of related rights. In India, sound recordings are subject to registration, as detailed in the corresponding response (Annex III).

The U.S Copyright law does not distinguish between copyright and related rights, therefore performances, broadcasts and sound recordings are registered as copyright works if they meet the general conditions for protection of the same. The registration requirements are the same as for other copyrighted works. In Argentina, only phonograms are registered, given that the law includes them as protected works and the law refers only to the registration of works. There is no difference in the registration process between phonograms and other types of works.

3. *Is copyright registration/ recordation 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/recordation system, please describe any legal sanction(s) for non-compliance.

- (a) *Recognition of creation?*

None of the countries surveyed have established a mandatory registration system for the purpose of recognition of creation. It can be noted that in Argentina registration of a published national work is compulsory for the publisher and that the lack of registration does not affect the recognition of moral rights, as detailed in the corresponding response (Annex III).

- (b) *Transfer of rights?*

The replies have shown that the recording of transfer of rights is done on a voluntary basis. In Colombia, any contract transferring copyright or related rights shall be recorded as a condition for publicity and enforceability *vis a vis* third parties. Also in Mexico, contracts through which economic rights are transferred are subject to recordation. In some countries, such as Canada, recordation of a license or assignment has a number of advantageous consequences for the rightowner. In the United States of America, where a document that refers to registered work is recorded, recordation constitutes constructive notice of the facts stated in the document. A recorded document also receives priority over conflicting transfers or exclusive licenses that have not been recorded.

- (c) *Initiation of judicial proceedings?*

In general terms legislation in the countries concerned do not establish registration as a prerequisite or obligation for the initiation of court proceedings.

In the United States of America, registration is voluntary for initiation of proceedings related to foreign works, but it is mandatory for national works in order to institute legal action. In such cases the court has no jurisdiction until a registration has been filed and, in certain cases, completed, as detailed in the corresponding response (Annex III).

In Canada, the registration of copyright creates certain advantages to an applicant involved in litigation including that a certificate of registration of copyright is evidence that copyright subsists and a presumption that the person registered is the owner of the copyright.

(d) *Other changes in title/ownership (such as leasing)?*

With respect to the change of ownership, the general rule of voluntary recordation applies. However Mexican law provides that the acts, agreements and contracts through which rights are transferred shall be recorded in Copyright Registry to have effect *vis a vis* third parties. This requirement does not apply to mere licenses for the use of copyrighted subject matter.

If your country has a mandatory registration/recordation system, please describe any legal sanction(s) for non-compliance

As stated above, a mandatory registration system of copyright has not been established in any of the countries concerned.

In several countries such as Canada and the United States of America, the registration system provides, rather than legal sanctions, additional benefits. In the United States of America registration prior to infringement or within three months of publication enables a court to award the litigant extraordinary remedies (i.e., statutory damages and attorneys fees) when the copyright owner prevails in an infringement action. The court is without jurisdiction to award such damages in the absence of timely registration although it may award actual damages, profits and other remedies.

4. *What is the legal effect of registration?*

(a) *Copyright?*

(b) *Related rights?*

In general, the legal effect of registration of copyright or related rights is to establish the presumption that the facts and acts recorded are true, unless proven otherwise.

In Argentina, the legal effect of registration is to establish a rebuttable presumption (*iuris tantum*) of authorship. In Canada the registration of copyright, as detailed in the corresponding response, has a number of legal consequences. It has to be noted that a certificate of registration is evidence that copyright subsists in the work and that the person registered is the owner of the copyright unless evidence to the contrary is furnished. Moreover, where copyright is registered at the time of infringement, the defendant is deemed to have had reasonable grounds for suspecting that copyright subsisted.

In China, a copyright registration certificate is a preliminary proof of the registered items, and it has a similar effect to that of a manuscript as evidence in a court proceeding. Registration in Colombia, both in the case of copyright and related rights, does not create an intellectual property right. It does, however, provide the rightholder with a means of proof of her right.

In Hungary, the certificate delivered by the collecting societies assists the authors in claiming their authorship and identification of their works in case of litigation.

In India, the Register of Copyright serves as *prima facie* evidence of the particulars recorded therein. Certified copies are admissible evidence in all courts without further proof of production of the original.

In Japan, unless there is evidence to the contrary, the respective registered dates shall be taken as the dates of creation of the work and first publication of the same. The registered person is presumed to be the author of the work. Registering the transfer helps to oppose third parties claims, both regarding copyright and related rights. In Mexico registration of copyright and related rights establishes a presumption that the facts and acts recorded are true, unless proven otherwise. All entries exclude the rights of third parties. In the case of dispute, the effects of registration are suspended until the competent authority reaches a final resolution

In Spain, registration provides, both for copyright and related rights, a presumption of authorship, unless proof to the contrary is provided. In the United States of America registration made before or within the first five years after publication provides *prima facie* evidence of the truth of the facts stated in the copyright certificate and *prima facie* evidence of the validity of the claim. As detailed in the corresponding reply registration of renewal claims within the year before expiration of the original term is also entitled to *prima facie* evidence of the claim's validity and veracity. Registration of a renewal claim within the year before expiration of the original term also entitles the owner to further license the use of a derivative work prepared under a previous license or transfer.

In the Philippines, registration regarding copyright and related rights is purely for the purpose of recording the date of deposit of the work and is not conclusive as to ownership or term of protection or existence of the rights. In Germany the purpose of registration is to establish the term of copyright protection for anonymous and pseudonymous works.

5. *Do courts in your country recognize copyright registrations effected 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?*

From the responses received it can be noted that, in general, courts recognize copyright registrations effected by public authorities in other countries subject, in most of the countries, to the accomplishment of various formalities.

In Argentina, in cases where a registration from another country is submitted as a means of proof, the courts shall deem it valid once the general requirements for the acceptance of any foreign document submitted as documentary evidence have been complied with.

In Canada recognition of foreign registrations of copyright is not automatic and must be proved in Canadian courts in accordance with the rules of evidence and procedure. However, effect will be given to copyright registered by public authorities in certain other countries by virtue of the Copyright Act which extends national copyright protection to Berne Union members, WTO Members and Universal Copyright Convention members and in other cases as detailed in the corresponding response (Annex III).

In China, the courts can decide to recognize the copyright registration. To this effect, the relevant party shall provide, at least, a notarial deed and a verification, which may be issued by a notary public and the Embassy of the foreign country where the registration

certification has been issued. In the Philippines, the documents shall also be authenticated as detailed in the corresponding answer (Annex III)

In Japan, courts recognize registration automatically. In Mexico documents from abroad which are submitted for the purposes of verifying the ownership of copyright or related rights, shall not require legalization for the purposes of their registration. Their translation, truthfulness and authenticity are the responsibility of the applicant.

There is no provision in the United States of America copyright statute to recognize copyright registrations effected by public authorities in other countries, nor have any case been found that recognizes foreign copyright registration. No sufficient data are available regarding court decisions in Spain on this matter.

In Hungary, registration is accepted as evidence of the existence and the date of creation and ownership of the work, due to the free system of evidence applicable in procedure laws. There is no legal procedure to validate the registration made by foreign authorities, but it can be accepted as evidence.

III. Procedural questions

1. *What are the requirements for registration?*

(a) Is there a deposit requirement, that is, must a fixed copy of the work be submitted with registration/recordation form?

As detailed in the corresponding responses (Annex III) the deposit of a fixed copy of the work together with a registration form is mandatory in most of the countries concerned. However, in Canada and Germany the applicant does not submit a copy of the work. In Japan, this obligation only concerns computer programs. In the Philippines the mandatory deposit relates only to certain works as detailed in the corresponding response and it may be done on a voluntary basis in other cases.

The main purpose of the deposit is to provide evidence of the existence of the work or other subject matter over which authorship or ownership is claimed. Deposit of the work can serve other, ancillary purposes such as the establishment of a national archive or library of the artistic and literary works published in the country concerned.

(b) Is there a registration/recordation fee? If so, how much is the registration/recordation fee?

In Colombia registration services are provided free of charge. In the rest of countries the recordation fees vary widely from one country to another, as shown in the corresponding answers in the questionnaires (Annex III).

(c) What is the average time taken to complete the registration/recordation process?

The average time needed for registration of copyright in the different countries varies largely as detailed in the respective responses. These differences may be largely due to the

different nature of registration in the jurisdictions concerned. In some countries, such as Canada, China, Colombia, Germany, Mexico and Japan two to four weeks are needed. At present in India, the average time taken to complete the process is five to six months but with the recent computerization of the Copyright Office, this period will be reduced to a minimum. In the United States of America, it takes an average of 105 days. In the Philippines, the recordation process is completed in ten days and in Hungary, Artisjus registers a work in half an hour. In Spain, the maximum period established by the Registration Regulations to resolve any application for registration is six months. In Argentina, the registration of an unpublished artistic and literary work is completed at the actual time of submission. In case of published works, the time involved in the registration is estimated at one week.

2. *Is there a different registration/recordation process for domestic as opposed to foreign works or objects of related rights?*

In all countries concerned the registration process for domestic and foreign works or objects of related rights is the same. In Colombia, as stated in the corresponding response, some specific formalities apply to the documentation requirements for registration of foreign works.

3. *Are the files stored in digital form?*

The information submitted with the work is stored in digital format in Argentina, Canada, Germany, Mexico, Spain and the United States of America. India is in the process of digitizing the files. In Hungary, Filmjus stores the data in digital format and Artisjus does so at the request of the rightholder. In China and Japan, the information related to computer programs is stored in a digital database.

4. *Search facility of the registration/recordation system:*

- (a) *Does the system have a publicly available search facility? Are there restrictions on access?*
- (b) *Is the search facility available online in real time?*

The registration systems of Argentina, Colombia, Germany and Hungary do not have a publicly available search facility.

The Canadian Copyright office provides an Internet search facility for registrations from 1991 to date (available on line in real time) and in the search room on microfiches, microfilm or registers.

As detailed in the corresponding response the website of the CPPC contains information related to the registration of works, recordation of copyright license contracts and copyright transfers that the public can search and access on line. The CPPC is organizing this information in order to make it accessible in real time. A computer software information searching system has already been established, which covers basic information on registrations by the CPPC, but not registrations effected by local copyright administrations.

In India, search facility is available without restriction, subject to the payment of a nominal fee, but not yet online in real time.

In Japan, search facility is publicly available without restriction regarding only computer software. The facility is not available online in real time but information from the last six months is made available in dedicated terminals at the premises of the registering body (SOFTIC).

In the Philippines, the National Library has developed an index card search facility available to the public and the development of a computerized search facility is ongoing.

In Spain, registrations entries are public and search facility is available online in real time once the right is registered.

In the United States of America, information prior to 1978 is available for public search in the Copyright Office. For records from 1978 to date, the online search system, as detailed in the corresponding answer, is available on real time without restriction from its website.

(c) *Is access granted to the fixed copy of the work registered?*

(d) *Does the general public have access to other documents submitted?*

As detailed in the respective answers (Annex III), in most cases the public has no access to the fixed copy of the work registered. Accessibility of other related documents varies widely in the countries concerned. In Argentina access to registered published works is guaranteed and the public may request information concerning the procedures carried out by the registering body. In China, access is granted to the publicly available information on works registered, including the sample of a work. As to the file of registration of computer software, the member of the public may access the electronic documentation in PDF format of the registration of software copyright. The general public (except applicants) has no access to the other material submitted by the applicant, except the information on registration of computer software. If inquiring about the computer software registration information, the public shall provide an acceptable reason to access to the electronic documentation in PDF format and the copy of the registered material under the supervision of the staff of the registering body. However, the reproduction of registered material is prohibited.

In Canada, public access is limited to documentation related to registration. The registering body does not keep copies of works. In the Philippines, all copies of works registered and deposited, except unpublished works, are open to public inspection subject to the accomplishment of some formalities.

In Colombia, access to registered works is limited to right owners or to the person designated by judicial authorities. In principle the public can only access, under the circumstances detailed in the corresponding response, other general documentation related to the registration.

In the United States of America, persons who are not copyright owners are granted access to works under prescribed circumstances; and under supervision they may inspect a copy of a deposited work. Upon payment of applicable service fees, the general public may request other documents, for example, correspondence submitted in connection with registration, or application forms. In exceptional cases, upon a showing of good cause, the Register may grant special permission to obtain access to in process files. In Spain, access to

the work is limited to rightowners and access to other documents is limited to people who can prove a legitimate interest. In Germany, any person may access certain information from the Registry as detailed in the corresponding response (Annex III). In Hungary, access to registered information varies, as explained in the corresponding response, for the two private registering entities.

5. *Please provide statistics on following registrations/recordations:*

(a) *Number per statistical period (last five years)*

(b) *Number of inquiries/requests for information filed per statistical period (last five years).*

Statistics are presented in Annex II .

[Annexes follow]

ANNEX I

QUESTIONNAIRE ON REGISTRATION/RECORDATION SYSTEM

I. INSTITUTIONAL QUESTIONS

1. What is the name and legal status of the copyright registering/recording body in your country?
2. Is the copyright registry interconnected to any other copyright data system?

II. LEGAL QUESTIONS

1. 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.
2. 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?
3. 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 sanction(s) for non-compliance.

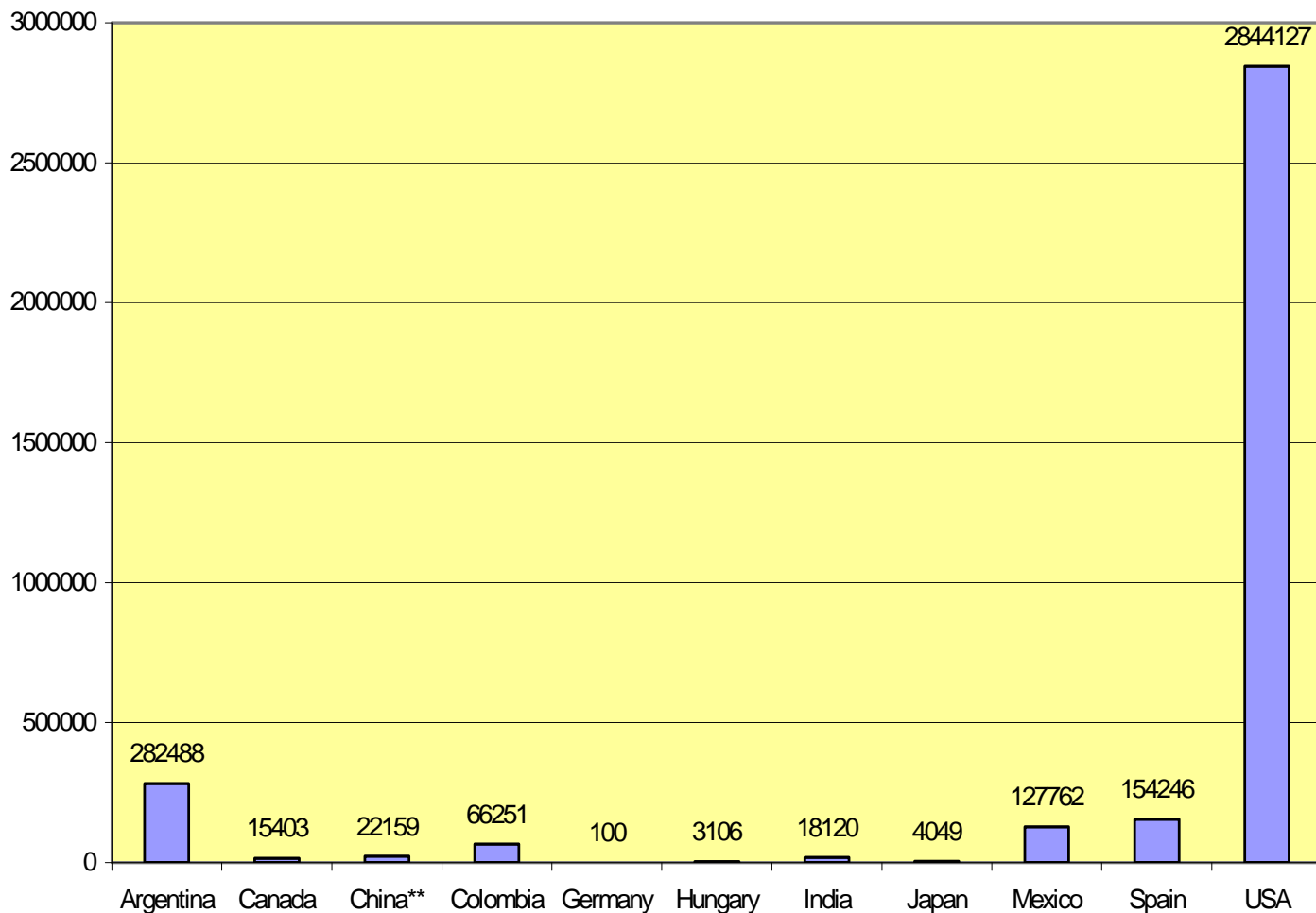
4. What is the legal effect of registration?
 - (a) Copyright?
 - (b) Related rights?
5. Do courts in your country recognize copyright registrations effected by public authorities in other countries? If yes, is recognition automatic or is a local procedure required to validate or otherwise give effect to the foreign registration?

III. PROCEDURAL QUESTIONS

1. What are the requirements for registration?
 - (a) Is there a deposit requirement, that is, must a fixed copy of the work be submitted with registration/recordation form?
 - (b) Is there a registration/recordation fee? If so, how much is the registration/recordation fee?
 - (c) What is the average time taken to complete the registration/recordation process?
2. Is there a different registration/recordation process for domestic as opposed to foreign works or objects of related rights?
3. Are the files stored in digital form?
4. Search facility of the registration/recordation system:
 - (a) Does the system have a publicly available search facility? Are there restrictions on access?
 - (b) Is the search facility available online in real time?
 - (c) Is access granted to the fixed copy of the work registered?
 - (d) Does the general public have access to other documents submitted?
5. Please provide statistics on following registrations/recordations:
 - (a) Number per statistical period (last five years)
 - (b) Number of inquiries/requests for information filed per statistical period (last five years).

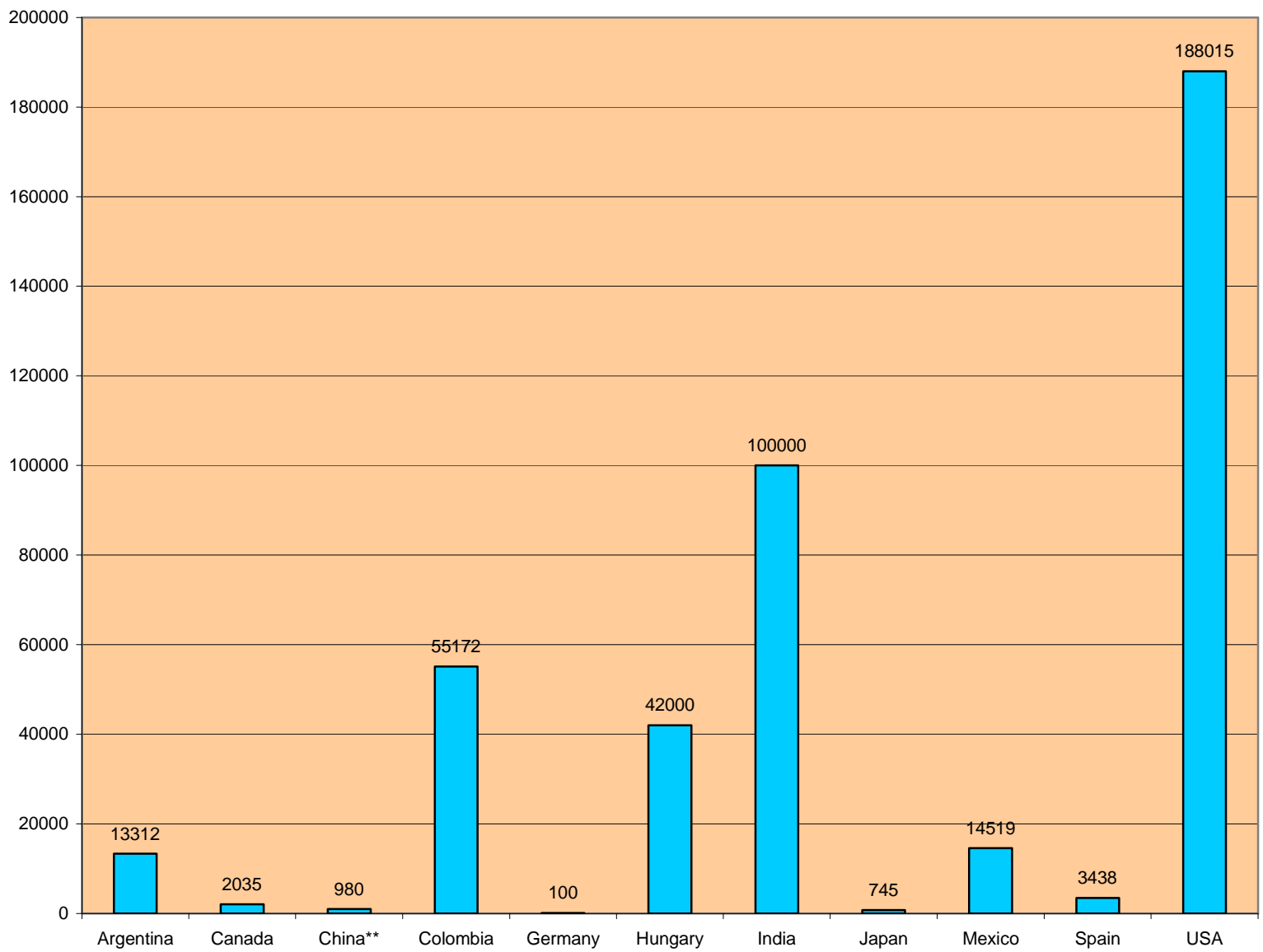
[Annex II follows]

Copyright Registration Statistics (five year period 1998-2002)



This chart reflects the number of registrations in a five year period ; countries that did not provide this information do not appear.

Copyright Registration inquiries/request of Information (five year period 1998-2002)



This chart reflects the number of Registration inquiries/request of Information in a five year period; countries that did not provide this information do not appear.

ANNEX III

REPLIES TO THE QUESTIONNAIRE ON REGISTRATION/RECORDATION SYSTEM

ARGENTINA

I. INSTITUTIONAL QUESTIONS

The name of the body responsible for copyright registration is the National Copyright Directorate, a National Public Administration body, attached to the Secretariat of Judicial Policy and Legislative Matters of the Ministry of Justice, Security and Human Rights of Argentina.

Registration is not interconnected with other copyright registration systems.

II. LEGAL QUESTIONS

Scientific, literary and artistic works are registered, including writings of any kind and duration, and comprise source and object computer programs, compilations of data or other materials, dramatic works, musical and dramatico-musical compositions, cinematographic, choreographic and pantomime works, as well as works of drawing, painting, sculpture and architecture; models and works of arts or science applied to commerce or industry, printed matter, plans and maps, three-dimensional art, photographs, recordings and phonograms, and finally any scientific, literary, artistic or educational production, irrespective of its method of reproduction (Article 1 of Law No. 11.723).

It should be noted that the list contained in the Article in question is merely illustrative, and now other original creations, not expressly provided for in the Law, are registered, such as webpages, multimedia and other audiovisual works which are not cinematographic.

The registration process is basically the same for each type of work. The form to be submitted varies and it should be noted that the required data are different according to the type of work and the number of accompanying copies, four in the case of literary works, apart from luxury editions or those with fewer than 100 copies, in which case a single copy is attached, three in the case of phonograms, and one for videograms and computer programs.

2. Within the subject matter of related rights (performances, phonograms and broadcasts), only phonograms are registered, given that Article 1 of Law No. 11.723 includes them as protected works and the Law refers only to the registration of works. There is no difference in the registration process between phonograms and the remaining works.

3. The deposit of unpublished works is voluntary (Article 62 *in fine* of Law No. 11.723) and represents a means of proof of authorship and a particular date of creation.

The registration of a published national work is compulsory for the publisher (Article 57). The lack of registration does not affect the exercise of the rights of paternity and integrity of the work and its defense in courts of law. However, such a lack of registration suspends the exercise of the economic rights over the publication until such time as that requirement has been complied with (for example, a parallel edition not authorized by the author but which respects his authorship and the integrity of the work is considered lawful in the case of failure to register).

For that reason:

(a) the creation may be recognized by any means of proof, including in the form of registration;

(b) the transfer of rights made effective by means of contracts does not require the work to be registered. The requirement for such registration is the duty of the parties who sign the respective contract;

(c) the work does not need to be registered in order to launch court proceedings;

(d) the changes in ownership based on contracts do not require the work to be registered. The requirement for such registration is the duty of the parties who sign the respective contracts.

4. (a) The legal effect of registration is to constitute a presumption *iuris tantum* of authorship;

(b) the same applies for phonograms considered to be works under Law No. 11.723.

5. National courts do not require copyright registration from third countries bound by the Berne Convention or the Universal Copyright Convention, in order to protect the work.

In cases where an author's registration from another country is submitted as proof, the courts shall accept it once the requirements of any foreign document offered as documentary evidence, or certification of the signature and legalization, have been complied with.

III. PROCEDURAL QUESTIONS

1. Requirements for registration

(a) A publisher is obliged to deposit four copies of the national edition of a literary work with the following bodies: one copy for the National Library, another copy for the Library of the National Congress, the third for the National General Archive and the fourth, which is deposited with the National Copyright Directorate (DNDA), as a registration copy. In the case of a luxury edition or one with fewer than 100 copies, only the registration copy is deposited.

For phonograms, three copies are deposited with the National Library, National General Archive, and a registration copy with the DNDA.

For computer programs, videograms and data compilations only the registration copy is required.

For cinematographic works, the photographs of the main scenes of the film are deposited, together with the plot, dialog or music, and also the name of the script writer, composer, director, main artists and the length of the film are given (Article 10, Decree No. 41.233/34).

In the case of sculptures, drawings and paintings a photograph is deposited together with an account of the work (Article 11, Decree No. 41.233/34).

For photographs, plans, maps and recordings, the relevant copies are deposited and, as regards non-printed dramatic or dramatico-musical works, the copy certified by the author, composer and impresario of the premises where the work was performed is deposited.

In the case of an unpublished work, a copy of the original is deposited in a closed and sealed envelope, which is deposited with the DNDA for a three-year period, said period being renewed at the author's request.

In all cases, the copy or specimen of the work must be accompanied by the respective registration form.

(b) A registration fee does exist and is paid to the National Arts Foundation. The amount of the fee is fixed by Resolution No. 380/91 of the Ministry of Justice, a copy of which is attached.

In addition to the fee, the user acquires the registration form. Such forms are provided by the Cooperating Bodies, Argentinian Society of Authors and Musical Composers (SADAIC) for unpublished and published musical works and their contracts, the Argentinian Book Chamber (CAL) for published literary works and their contracts, the Argentinian Chamber of Producers of Phonograms and Videograms (CAPIF) for phonograms, or audiovisual works and their contracts, unpublished literary and artistic works and periodicals, and the Chamber of Software Companies and Services (CESSI) for computer programs, databases and their contracts.

(c) The time involved in a registration process is as follows: for unpublished artistic and literary works submitted to the DNDA, the process is completed at the actual time of submission (the depositor submits his work with the duplicate of the form on which the registration number and date are indicated, and he retains the original of said form with the same data). In the case of works registered within Argentina the process is conducted by mail, for which reason its duration cannot be estimated.

In case of published works, copies of which are submitted to the Cooperating Bodies (SADAIC, CAPIF, CESSI and CAL), the period between the submission of the works and the submission of the original form with the registration number and date to the depositor is estimated at one week.

2. Foreign works are expressly exempt from the obligation to register (Article 13 of Law No. 11.723). In cases where publishers or foreign authors wish to register such works, the same procedure as for national works is followed and only the registration copy is required.

As regards phonograms, see the information provided in I.2, III.1(a), (b) and (c), and it should be noted that phonograms are considered to be works, in accordance with Article 1 of Law No. 11.723.

3. The main data contained in the forms attached to the deposited copies are stored in digital format in the DNDA database. The attached registration copies are deposited with the DNDA.

4. Search facility of the registration/recording system

(a) The system is operated only by DNDA staff.

(b) The search facility is available only to DNDA staff.

(c) Access to registered published works is guaranteed. The registration copy is that submitted to the courts as evidence in case of disputes.

(d) The general public may request information concerning the procedures carried out with the DNDA.

5. Statistics

(a) Registration of works (unpublished and published), contract and periodicals

1998 – 57,806

1999 – 58,174

2000 – 59,622

2001 – 56,092

2002 – 50,794

(b) Request for information on registration (judicial advisory services and offices):

1998 – 2,681

1999 – 2,835

2000 – 3,093

2001 – 2,734

2002 – 1,969

TARIFFS OF THE NATIONAL COPYRIGHT DIRECTORATE

Ministry of Justice Resolution No. 380/91

Article 1. The tariffs paid to the National Copyright Directorate shall be fixed in accordance with Decree No. 993/78, in relation to the items contained in Annex I of this Resolution.

Article 2. The new tariffs shall come into force from the date on which they are published.

1. Works specified in Article 1 of Law No. 11.723, excluding those works subject to special taxes under this Decree.

1.1 Unpublished: for every three years they remain deposited for safe keeping	\$ 0.62
1.2 Published: by means of printing, on the value of the works (two per thousand) With a minimum rate of	2% \$ 4.11

2. Works of fine art: three-dimensional works, models and any work applied to trade or industry.

2.1 Unpublished: for every three years they remain deposited for safe keeping	\$ 2.06
2.2 Published: by means of printing, on the commercial value of the publication (four per thousand) With a minimum rate of	4% \$ 10.28
2.3 Where the value cannot be determined, a fixed fee shall be paid of	\$ 20.56

3. Published works: by means of public or stage, radio or television performance

3.1 Musical works	\$ 1.03
3.2 Theatrical works: for profit-making purposes	\$ 2.06
3.3 Theatrical works: for non-profit purposes	\$ 0.62
3.4 Works of commercial advertising	\$ 20.56

4. Cinematographic works

4.1 Published: on industrial cost (three per thousand)	3%
4.2 Published: for national production of newsreels, cartoons, with minimum duration of two acts (two per thousand) With a minimum rate of	2% \$ 20.56
4.3. Published: for national educational production (one per thousand) With a minimum rate of	1% \$ 10.28

5. Discs and works embodied by means of recording, perforation or electromagnetic processing (discs, perforated music, tapes, reels, magnetic wires or similar procedures)

5.1 Of common type with two recorded works	\$ 1.03
5.2 With four recorded works	\$ 2.06
5.3 With more than four recorded works	\$ 6.17

6. Periodicals (newspapers, journals and periodicals published in the country, registration renewable annually according to number of copies)

6.1 Up to 5,000 copies	\$ 6.17
6.2 5,001 to 50,000 copies	\$ 10.28
6.3 50,001 to 100,000 copies	\$ 20.56
6.4 More than 100,000 copies	\$ 102.79

7. Legal and other administrative proceedings

7.1 Registration of general or special powers	\$ 2.06
7.2 Rules or lists of members, societies or associations representing authors or their right holders	\$ 4.11
7.3 Contracts, one per cent of that amount. Shares of less than ten cents shall not be calculated. Where a contract has a fixed and a non-fixed portion, one per cent will be paid on the fixed portion, with a minimum rate of	\$ 4.11
7.4 Contracts where the value is not expressed or it is impossible to determine it	\$ 6.17
7.5 Registration of pseudonyms	\$ 2.06
7.6 For a statement of certificate of registration of each	

SCCR/13/2
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work or of each unpublished work deposited, at the request of the courts or interested party	\$ 0.41
7.7 For the annotation of seizures or inhibitions or the lifting thereof	\$ 1.03
7.8. For the recording of acts subsequent to registration, not covered by points 7.6 and 7.7	\$ 0.62
7.9 For the dispatch of certificates for each registered contract	\$ 1.03
7.10 For all information requested or consultations on titles of periodicals, number of editorials, registered works or pseudonyms (for each title or name consulted)	\$ 0.41
7.11 For entry in the Register of Publishers	\$ 4.11
7.12 For annotation in the Register of Foreign Works (on the commercial value) 0.2 per cent With a minimum rate of	2% \$ 4.11
7.13 For each photocopied sheet dispatched, a fixed fee will be charged of	\$ 0.12
7.14 For opening an envelope of an unpublished work and drawing-up of a certificate	\$ 0.21
7.15 For the return of an unpublished work and drawing-up of a certificate	\$ 0.21
7.16 For any other procedure not previously provided for a fee will be charged of	\$ 1.03

CANADA

I INSTITUTIONAL QUESTIONS

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

In Canada, the Copyright Office is responsible for registering copyright. The Copyright Office is attached to the Canadian Patent Office and is under the jurisdiction of the Department of Industry, Government of Canada.

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

No.

II LEGAL QUESTIONS

1. 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.

The following kinds of copyright works may be registered in Canada:

- * literary
- * musical
- * artistic
- * dramatic

The registration process is the same for each of the above-mentioned works.

2. 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?

The following kinds of related rights may be registered in Canada:

- * performer's performance
- * sound recordings
- * communication signals

The registration process is the same for each of the above-mentioned related rights.

3. 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?)

Recognition of creation in Canada does not depend on registration or any other formal act. Copyright subsists automatically without any act beyond the creation of an original literary, musical, dramatic or artistic work in the circumstances set out in section 5 of the *Copyright Act*.

Registration of copyright or an assignment of copyright, or a licence granting an interest in copyright or granting a security interest is permissive and not compulsory in Canada. However, the registration of copyright, an assignment or licence will have a number of consequences under the Canadian *Copyright Act*, which are advantageous to the copyright owner.

Registration of copyright is not required for the initiation of judicial proceedings. However, the registration of copyright creates certain advantages to an applicant involved in litigation including that a certificate of registration of copyright is evidence that copyright subsists and a presumption that the person registered is the owner of the copyright.

4. What is the legal effect of registration?

- (a) Copyright?
- (b) Related rights?

The registration of copyright also has a number of legal consequences under the Canadian *Copyright Act*, which are advantageous to the copyright owner, including:

(a) Admissibility of copies - a certified copy of an entry on the Register of Copyrights is admissible in courts in Canada without further proof or production of originals.

(b) Certificate of Registration as Evidence - A certificate of registration of copyright is evidence that copyright subsists in the work and that the person registered is the owner of the copyright, unless evidence to the contrary is furnished. In the absence of registration, the presumptions set out in the *Copyright Act* relating to ownership apply. Specifically, the Canadian *Copyright Act* provides, subject to certain exceptions¹, that the author, performer, maker, or broadcaster, as the case may be, is the first owner of copyright.

(c) Certificate of Registration as Notice - Where copyright is registered at the time of infringement, the defendant is deemed to have had reasonable grounds for suspecting that copyright subsisted.

5. Do courts in your country recognize copyright registrations effected 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?

¹ The exceptions include engravings, photographs or portraits, works made in the course of employment and works created by or for the Federal Crown

Recognition of foreign registrations of copyright is not automatic in Canada and must be proved in Canadian courts in accordance with the rules of evidence and procedure. However, effect will be given to copyright registered by public authorities in certain other countries by virtue of Section 5 of the *Copyright Act* which extends national copyright protection to Berne Convention countries, WTO Members and UCC countries and also extends protection to works which may not have been protected previously when a country becomes a Berne Convention country or a WTO member. The Minister of Industry may also extend the benefit of the *Copyright Act* and copyright protection to countries that are not a Berne Convention country, WTO Member or UCC country.

III PROCEDURAL QUESTIONS

1. What are the requirements for registration?

(a) Is there a deposit requirement, that is, must a fixed copy of the work be submitted with registration/recordation form?

(b) Is there a registration/recordation fee? If so, how much is the registration/recordation fee?

(c) What is the average time taken to complete the registration/recordation process?

(i) No, the copyright office does not accept copies of the works

(ii) Yes, there is. If applied on line fee is \$50.00, by mail or fax it is \$ 65.00 per work.

(iii) 2 to 4 weeks, when application is complete

2. Is there a different registration/recordation process for domestic as opposed to foreign works or objects of related rights?

No

3. Are the files stored in digital form?

Yes, they are

4. Search facility of the registration/recordation system:

(a) Does the system have a publicly available search facility? Are there restrictions on access?

(b) Is the search facility available online in real time?

(c) Is access granted to the fixed copy of the work registered?

(d) Does the general public have access to other documents submitted?

(i) Yes public can search on Internet for registrations from 1991 to date and in the search room on microfiches, microfilm or registers. There o restrictions on access.

- (ii) Yes, but only from 1991 to date.
- (iii) No because we don't keep copies of the works.
- (iv) Public have access only to what is in the register.

5. Please provide statistics on followings registrations/recordations:

- (a) Number per statistical period (last five years)
- (b) Number of inquiries/requests for information filed per statistical period (last five years)

From January 1, 1999 to January 1, 2004

- (a) 15403
- (b) 2035

CHINA

I. INSTITUTIONAL QUESTIONS

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

In China, the copyright registering/recording bodies are China Copyright Protection Center, the provincial copyright administrations, and the copyright administrations in the autonomous regions and the municipalities directly under the central government as well as the registering/recording institutions designated by them.

China Copyright Protection Center is an institution under the National Copyright Administration of China (NCAC). It is entrusted by NCAC to take care of the registration of copyright of computer software and other works. The provincial copyright administrations in various provinces, autonomous regions and municipalities under the central government are responsible for the registration of copyright of various works except computer software in their region.

Regulations on Computers Software Protection promulgated by the State Council of the People's Republic of China provides that a software copyright owner may register with the software registration institution recognized by the copyright administration department of the State Council. Measures of Registration of Computers Software issued by the NCAC in 2002 designated the China Copyright Protection Center as the software registration institution.

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

No.

(a) LEGAL QUESTIONS

1. 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.

All kinds of copyright works provided for under Article 3 Chinese Copyright Law can be registered. The registration process of computer software is different from other type of copyrighted work. According to Regulations on Computers Software Protection, not only the computer software copyright, but also the exclusive licensing contract or a transfer contract of software copyright may be registered with the software registration institution recognized by the copyright administration department of the State Council. The registration of computer software copyright, the exclusive licensing contract or a transfer contract of software copyright is carried out independently in accordance with Regulations on Computers Software Protection and Measures of Registration of Computers Software while the registration of other type of copyrighted work follows the procedure provided for in Measures of Voluntary Registration of works issued by NCAC in December 1994.

It should be noted that both Measures of Registration of Computers Software and Measures of Voluntary Registration of works are the departmental regulations released by the NCAC.

2. 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?

There is no relevant provision in the Chinese Copyright Law and Measures of Voluntary Registration of works on the registration of the subject matter of related rights so far. However, the new Measures of Registration of Works or the amendment to the current Measures is under the consideration, which may refer to this aspect.

3. 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)?

In China, copyright emerges automatically when the work is created. There is no requirement of any formalities such as registration as the basis of copyright protection. Therefore, copyright registration/recording in the above four circumstances is completely voluntary. Right owners or contract parties, on the voluntary basis, do copyright registration/recording of various categories of works, including computer software as well as an exclusive licensing contract or a transfer contract of software copyright, through the application.

4. What is the legal effect of registration?

The legal effect of registration is as follows:

A copyright registration certificate issued by the copyright registration institution is a preliminary proof of the registered items, and it has the similar effect as the manuscript, original copy, publication of a work or the contract of rights business, which can be used as a proof of evidence to the court. It is also the requested attachment to be submitted together with other documents for the application of copyright recording in the Customs.

5. Do courts in your country recognize copyright registrations effected 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?

It depends on courts decision. To make the copyright registration recognized by the court, the relevant party shall provide, at least, a notarial deed and a verification, which may issued by notary public and the Embassy of that foreign country in China respectively, of the authenticity of the registration certification issued by public authorities in other country.

II. PROCEDURAL QUESTIONS

1. What are the requirements for registration?

(a) Is there a deposit requirement, that is, must a fixed copy of the work be submitted with registration/recordation form?

Yes, there is a deposit requirement. A copy of the work, either fixed on paper media, or in electronic version, or on audiovideo material, is required to be submitted with registration form.

(b) Is there a registration/recordation fee? If so, how much is the registration/recordation fee?

The registration fee of computer software copyright is paid according to the standard approved by relevant government authority, and no difference between Chinese and foreign copyright owners. The registration fee of software copyright is RMB300 per piece (application fee RMB250, certification fee RMB50); registration fee of software copyright contract is RMB30 per piece (application fee RMB300, certification fee RMB 50).

There is no unified criterion of registration fee on the registration/recordation of other works, since the registration/recordation has been done by the China Copyright Protection Center, the local copyright administrations and the institutions designated by them respectively. The coordination on this issue and unification of the criterion is under the consideration of the copyright Administration now.

(a) What is the average time taken to complete the registration/recordation process?

According to Measures of Voluntary Registration of works, it takes 1 month to complete the registration process, starting from the time when all required registration material has been received by the registration institution.

According to Measures of Registration of Computers Software , it needs 60 days to approve and complete the registration process, however, in practice, the average time to complete the registration process generally is controlled to be within 30 days.

2. Is there a different registration/recordation process for domestic as opposed to foreign works or object of related rights?

No, there is no difference.

3. Are the files stored in digital form?

No, the files are not stored in digital form yet except the computer software. Referring to the computer software, there is an established information system consisting the electronic documentation in PDF format and basic information of registration of computer software copyright.

4. Search facility of the registration/recordation system:

Does the system have a publicly available search facility? Are there restrictions on access?

The website of the China Copyright Protection Center (CPPC) includes the irregular updated information concerning the registration of copyright of works, recordation of copyright license contract and copyright transfer contract to which the general public can easily access.

Currently, the CPPC has primarily established a complete Computer Software Copyright Registration Information Searching System, which unloaded basic information on the registration of computer software from 1992 to 2000 to the Internet for the public to use, and there is no restriction on access.

It should be noted that the information offered by CPPC only includes the information on registration of computer software and other works prosecuted by the CPPC, not include the information on registration of works (except computer software) prosecuted by the local copyright administrations. And there is no interconnection between the data system of those copyright registries yet.

a) Is the search facility available online in real time?

No. However, the basic information of copyright registration filed in the CPPC can be searched in real time, and the search facility will be available online in real time with the establishment and improvement of the registration/recordation information system.

b) Is access granted to the fixed copy of the work registered?

The access is granted to the publicly available information on works registered, including the sample of a work.

As to the file of registration of computer software, the member of the public shall come to the CPPC and fulfill the formality required by the CPPC to have an access to the electronic documentation in PDF format of the registration of software copyright. This is aim to keep secrete of the content of software in the relevant material submitted to the Registry.

a) Does the general public have access to other documents submitted?

The general public (except applicants) has no access to the other material submitted by the applicant, except the information on registration of computer software. If inquiring about the computer software registration information, the public shall present the acceptable reason to the CPPC to have an access to the electronic documentation in PDF format of the registration of software copyright and the copy of the registered material under the supervision of the staff of the CPPC, however, the reproduction of registered material is prohibited.

5 Please provide statistics on following registrations/recordations:

a) Number per statistical period (last five years)

As the local copyright administrations also handle the registration of copyright of works in their region and the data system between them and the CPPC is not connected, the number of nationwide registration is not available currently. The interconnection between the data systems of various Registries is under the preparation now.

According to the CPPC, the number of registration of works (except computer software) from foreign countries, Hong Kong, Macao and Taiwan is about 1000 piece or series since June 2000.

As to the computer software, the number is 35,000 pieces covering both international and national applications since 1992 when the Registration system of Computer Software is established. The number of last five years is as follows:

Year	1998	1999	2000	2001	2002
Number of pieces	997	1577	3383	7293	8909

a) Number of inquired/requests for information filed per statistical period (last five years).

According to the CPPC, the public started to have access to the information filed on the registration of software copyright since 1992. The number of the public inquiring the information on registration of other works increased rapidly after the information on the registration of software copyright has been uploaded on to the Internet. The inquires directly addressed to the CPPC requesting the registration file of computer software or the electronic documentation in PDF format of registered software and requesting the search report issued by the CPPC is about 2000 pieces, and the number of the last five years is as follows:

Year	1998	1999	2000	2001	2002
Number of pieces	97	42	121	270	450

COLOMBIA

I. INSTITUTIONAL QUESTIONS

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

In Colombia the name of the system is National Register of Copyright.

The National Register of Copyright of Colombia is a duty entrusted to the Special Administrative Unit of the National Directorate of Copyright (hereinafter DNDA), a public-law body attached to the Ministry of Interior and Justice.

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

The National Register of Copyright of Colombia, under the authority of the DNDA, is not interconnected to any other copyright databases.

II. LEGAL QUESTIONS

1. 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.

Type of works:

The protection provided by the applicable copyright and related rights legislation in Colombia, with respect to protected works, covers all the literary and artistic works which may be reproduced or disclosed in any form or by any means known or to be made known. The works referred to in Article 4 of Decision 351 of the 1993 Common Provisions on Copyright and Neighboring Rights of the Andean Community of Nations are those which are entered in the National Register of Copyright, as listed below:

- (a) *Works expressed in writing, that is books, pamphlets and any other kind of work expressed in letters, signs or conventional marks;*
- (b) *Lectures, addresses, sermons and other works of the same nature;*
- (c) *Musical compositions with or without words;*
- (d) *Dramatic and dramatico-musical works;*
- (e) *Choreographic and mimed works;*
- (f) *Cinematographic works and other audiovisual works expressed by any process;*
- (g) *Works of fine art, including drawings, paintings, sculptures, engravings and lithographs;*

- (h) *Works of architecture;*
- (i) *Photographic works and those expressed by processes analogous to photography;*
- (j) *Works of applied art;*
- (k) *Illustrations, maps, sketches, plans, diagrams and three-dimensional works relating to geography, topography, architecture or science;*
- (l) *Computer programs or software;*
- (m) *Anthologies or compilations of assorted works and also databases which, by the selection and arrangement of their contents, constitute personal creations.*

Recordation process

As regards the recordation process, it is relevant to a state that this is governed by Decree 460 of 1995⁶, in which it is stipulated that the registration of literary and artistic works with the DNDA, in relation to the above-mentioned works, is identical for each work, although the requirements for the entry of each work vary according to the category.

Article 8 of Decree 460 of 1995 states that, in order to enter literary and artistic works in the National Register of Copyright, the interested party shall observe the formats produced for that purpose by the DNDA, in which the following information shall be provided:

- (a) *The name, nationality, identification document and habitual residence of the author or authors of the work, and also the date of the death and pseudonym where this is applicable.*

In relation to pseudonymous works, the name of the publisher entitled to exercise the author's economic rights shall be stated, unless the pseudonym is registered in accordance with the provisions relating to the civil status of persons, in which case the rights shall belong to the author. In this event, a copy of the individual declaration of the pseudonym made to a notary shall be attached.

For anonymous works, it shall only be necessary to indicate the name of the publisher who shall exercise the rights until the author decides to emerge from anonymity;

- (b) *Title of the work and previous works, where applicable;*
- (c) *An indication should be given as to whether the work is unpublished or published, original or derived, individual or collective, produced in collaboration, a translation, and in general any character which it may possess;*
- (d) *Year of creation;*

⁶ Governing the National Register of Copyright and Regulating Statutory Deposit

(e) *Name, nationality, identification document and usual address of the applicant, stating whether he is acting on his own behalf or as a representative of another person, in which case proof of his representation shall be attached;*

(f) *Where an entry is to be made for an owner of economic rights other than the author, his name or trade name shall be mentioned, according to the case, and the document providing proof of how he acquired such rights shall be supplied.*

■ **Additional requirements**

If the request for registration relates to published literary works, including computer programs, audiovisual works or phonograms, a copy of the work or production shall be submitted to the DNDA Registration Office (Article 8(2) of Decree 460 of 1995).

Published literary work: where the literary work is published, the following shall be indicated (Article 9 of Decree 460 of 1995).

(a) *Date and country of its first publication;*

(b) *Name or firm name of the publisher and printer, and also his address;*

(c) *Publication number and print run;*

(d) *Size, number of pages, ordinary or deluxe edition and other circumstances helping to identify the work perfectly.*

Unpublished literary work: where the literary work is unpublished, the DNDA Registration Office shall be supplied, together with the appropriate registration format, with a copy of the work, without amendments, mutilations, marks or interline notes, and shall be duly bound. If the work is a manuscript, this shall be attached in a clear and legible form (Article 10 of Decree 460 of 1995).

Musical work: in the case of a musical work with or without words, the type and musical rhythm to which the music belongs shall also be mentioned, and a copy of the score, and where appropriate the words, attached (Article 11 of Decree 460 of 1995).

Audiovisual work: in relation to audiovisual works (Article 12 of Decree 460 of 1995), in addition to what is mentioned in Article 8 of Decree 460 of 1995, the following should be indicated:

(a) *The name and address of the director, author of the script or libretto, author of the musical work and author of the drawings in the case of an animated film;*

(b) *Name and address of the audiovisual producer;*

(c) *The name of the main artists;*

(d) *Nationality, end date, length and duration;*

(e) *A brief account of the plot, dialogue, scenario and music.*

Artistic work: for the registration of artistic works (Article 13 of Decree 460 of 1995), such as pictures, sculptures, paintings, drawings, engravings, photographic works and those expressed by processes analogous to photography, in addition to the information requested in Article 8 of Decree 460 of 1995, a complete and detailed description shall be made in writing of the work to be registered, so that it may be distinguished from another work of the same kind. In addition to the registration format, as many photographs as are necessary to identify it perfectly or a copy of the work shall be attached.

Works of architecture, engineering, maps, sketches and three-dimensional works relating to geography, engineering, topography and architecture or the sciences in general (Article 14 of Decree 460 of 1995): mention shall be made, in addition to the information requested in Article 8 of Decree 460 of 1995, of the class of work in question and a description of the characteristics identifying the work also given. Similarly, as many photographs as are necessary to identify its essential elements or a copy of the work shall be attached.

Dramatic work: for the registration of works in scenes such as theater plays, mimed works, choreographic, dramatic or dramatico-musical works (Article 15 of Decree 460 of 1995), in addition to the provisions of Article 8 of Decree 460 of 1995, the format already established by the National Directorate of Copyright shall include details of the class of work in question, its duration and a brief description of its content. In addition to that information, a written extract or summary of the work or a copy of it shall be attached, as appropriate.

Software: for the purposes of entry in the National Register of Copyright of computer programs, one of the following three items shall be attached: (i) the computer program; (ii) additional material; or (iii) a description of the program.

2. 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?

Phonograms are entered in the National Register of Copyright of Colombia. The difference with the registration process for the literary and artistic works described in the previous section varies depending on the information provided.

In accordance with Article 16 of Decree 460 of 1995, for the registration of phonograms the pre-established format designed for that purpose by the DNDA must be submitted and must contain the following information:

- (a) *Title of the phonogram;*
- (b) *Name, identification and address of the phonographic producer;*
- (c) *Year of first fixation;*
- (d) *Title of the works fixed on the phonogram and their authors;*
- (e) *Name of the artists or performers;*
- (f) *Indication of whether the phonogram is published or unpublished;*

(g) *Name, identification document and habitual residence of the applicant, stating whether he is acting on his own behalf or as a representative of another person, in which case proof of his representation shall be attached.*

3. Is copyright registration/recordation mandatory or voluntary in the following circumstances?

(a) Recognition of creation?

In accordance with Decision 351 of 1993 of the Andean Community of Nations and Law No. 23 of 1982 (Article 9), it is established that the registration with the DNDA of works and other productions covered by copyright and neighboring rights does not itself confer rights nor is it compulsory; consequently, the fact that a work is not registered is not an obstacle in stating that it is not protected, since the failure to register does not prevent the enjoyment and exercise of rights.

That being the case, the registration of works in Colombia is not compulsory. In accordance with Articles 52 and 53 of Andean Decision 351 of 1993, the registration of works does not itself confer rights other than a merely declaratory right, as specified by the relevant rules in the following terms:

“Article 52.- The protection afforded to literary and artistic works, performances and other productions covered by copyright and neighboring rights, in accordance with this Decision, shall not be subject to any kind of formality. Consequently, failure to register shall not prevent the enjoyment or exercise of the rights recognized in this Decision”.

“Article 53.- Registration shall be merely declaratory and shall not itself confer rights. Nevertheless, entry in the Register shall constitute a presumption that the facts and acts recorded in it are true, in the absence of proof to the contrary. Any entry shall be without prejudice to the rights of third parties”.

(b) Transfer of rights?

The instruments and contracts relating to copyright and related rights must be entered in the National Register of Copyright as a condition of publicity and enforceability on third parties, as specified by Article 6 of Law 44 of 1993 which states:

“Any instrument by which copyright or neighboring rights are disposed of, and any other instrument or contract associated with such rights, shall be entered in the National Register of Copyright as a condition of publicity and enforceability on third parties”.

(c) Initiation of judicial proceedings?

Not compulsory.

(d) Other changes in title/ownership (such as leasing)?

Not compulsory.

(e) If your country has a mandatory registration/recordation system, please describe any legal sanction(s) for non-compliance.

Not applicable.

4. What is the legal effect of registration?

- (a) Copyright?
- (b) Related rights?

For both copyright and related rights, the effect of registration is to provide the owners of copyright and related rights with a declaratory means of proof that does not itself confer rights, as per Article 53 of Andean Decision 351 of 1993.

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

Article 230 of the Political Constitution of Colombia states that in their rulings judges shall be subject only to the rule of law, such that, in order to accept a means of proof, it must satisfy the requirements established by the law.

In this connection, the public documents granted in a foreign country, as a form of registration of copyright or related rights, issued by a public official or with his participation, must be submitted having been duly authenticated by the consular officer or diplomatic agent of the Republic of Colombia and, failing that, by the same person from a friendly nation, as a result of which it is presumed that they have been granted in accordance with the law of the respective country. The signature of the consular officer or diplomatic agent shall be guaranteed by the Ministry of Foreign Affairs of Colombia and, in the case of consular officers of a friendly country, shall be authenticated in advance by the competent official of that country and, those of the other country, by the Colombian consular officer (Article 259 of the Code of Civil Procedure).

If the country which issues such a document is party to the European Convention on the Abolition of Legalization of Documents executed by Diplomatic Agents or Consular Officers⁷, adopted in the Hague on October 5, 1961, it shall attach only the certificate of authentication.

III. PROCEDURAL QUESTIONS

1. What are the requirements for registration?

See response to II.1

⁷Convention on the Abolition of Legalization of Documents executed by Diplomatic Agents or Consular Officers, adopted in the Hague on October 5, 1961, which was approved by the Republic of Colombia in Law 455 of August 4, 1998.

(a) Is there a deposit requirement, that is, must a fixed copy of the work be submitted with the registration/recording form?

For all registration applications, a copy of the work or a copy in the case of phonograms must be submitted.

(b) Is there a registration/recording fee? If so, how much is the registration/recording fee?

Registration processing is free of charge.

(c) What is the average time taken to complete the registration/recording process?

The duration of processing is fifteen (15) working days from the day following the filing of the application.

2. Is there a different registration/recording process for domestic as opposed to foreign works or objects of related rights?

(a) For the registration of the agreements or contracts concluded by Colombian collective management societies with their foreign counterparts, it will be necessary to submit an authentic copy of the document. If the instrument to be registered were adopted abroad or in a language other than Spanish, the relevant requirements as determined by the Code of Civil Procedure shall be observed.

(b) For the registration of general powers, if the power were granted abroad or in a language other than Spanish, the relevant requirements established by the Code of Civil Procedure shall be observed.

3. Are the files stored in digital form?

Search facility of the registration/recording system:

Does the system have a publicly available search facility? Are there restrictions on access?

Is the search facility available online in real time?

Such a possibility does not currently exist.

Is access granted to the fixed copy of the work registered?

The reproduction (copying) of published or unpublished works and consultation of registered unpublished works may only be carried out by the authors of those works, by their lawful successors who have proof of their status, and by the judicial authorities or any party authorized to do so by the authors.

(d) Does the general public have access to other documents submitted?

Only a copy of the registration. A copy of the unpublished work is received only by the author and provided this is expressly stated in the application. As regards the copies of registered contracts, a copy shall be received only where this is expressly requested for the purposes of publicity and enforceability on third parties.

5. Please provide statistics on the following registrations/recordations.

SUMMARY REGISTRATION OF WORKS (1997 – *2003)							
Class of Works	1997	1998	1999	2000	2001	2002	*2003
Published works	842	786	1,040	853	746	860	608
Unpublished works	3,283	3,801	6,554	6,201	5,653	6,089	4,675
Unpublished works	1,281	1,458	1,978	1,667	1,309	1,321	1,164
Artistic and musical	2,627	3,192	3,257	3,628	4,644	5,884	4,760
Audiovisual	28	35	41	35	75	147	98
Phonograms	306	323	208	415	343	544	543
Software	255	728	529	495	610	802	556
TOTAL	8,622	10,323	13,607	13,294	13,380	15,647	12,404

*2003 Registration of works up to September 2003

GERMANY

I. INSTITUTIONAL QUESTIONS

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

For anonymous and pseudonymous works there is a register called “Register of anonymous and pseudonymous works.” It is kept at the Patent Office (*Deutsches Patent – und Markenamt*) since September 17, 1965 pursuant to §§ 138(1) and 66 of the German Copyright Law (*Gesetz über Urheberrecht und verwandte Schutzrechte – Urheberrechtsgesetz*).

2. Is the copyright registration interconnected to any other copyright data system?

No.

II. LEGAL QUESTIONS

1. What kind of copyright works can be registered/recorded? Is the registration/recording process different for each type of copyright work? Please describe difference, if any.
2. 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?
3. Is the copyright registration/recording mandatory or voluntary?
4. What is the legal effect of registration?

In Germany, copyright protection in principle exists from the point of creation of the work and is not subject to any formality. Therefore, no registration is required. The mentioned register is for anonymous and pseudonymous works. Only protected literary, scientific and artistic works, that have been established as anonymous or pseudonymous works, can be registered. There is not differentiation by type of work. The registration is voluntary. The only purpose of the register is to apply the regular duration of copyright protection to anonymous and pseudonymous works.

The relevant provisions of German Copyright Law read as follows (non-official translation):

Article 66. Anonymous and Pseudonymous Works

- (1) In the case of anonymous and pseudonymous works, copyright shall expire 70 years after publication. However, it shall expire as soon as 70 years after creation of the work if the work was not published within that time limit.

- (2) If the author discloses his identity within the time limit specified in paragraph (1), first sentence, or if the pseudonym assumed by the author leaves no doubt as to his identity, the duration of copyright protection shall be calculated in accordance with Articles 64 and 65. The same shall apply if within the time limit specified in paragraph (1), first sentence, the true name of the author is submitted for entry in the Register of anonymous and pseudonymous works (Article 138).
- (3) The author, or after his death his legal successor (Article 30) or the executor (Article 28(2)), shall be entitled to perform the actions under paragraph (2).

Article 138 Register of Anonymous and Pseudonymous Works

- (1) The Register of anonymous and pseudonymous works for the entries set out in Article 66(2), second sentence, shall be kept at the Patent Office. The Patent Office shall effect the entries without verifying the applicant's entitlement or the accuracy of the information submitted for entry.
- (2) If entry is refused, the applicant may petition for a decision by the courts. The petition shall be heard by the Provincial High Court having jurisdiction for the district in which the Patent Office has its headquarters and which shall give a reasoned decision. The petition shall be made in writing to the Provincial High Court. The decision of the Provincial High Court shall be final. In other respects, judicial procedure shall be governed by the provisions of the Law on Matters of Voluntary Jurisdiction. The courts costs shall be governed by the Regulations on Costs; the fees shall be determined by Article 131 of the Regulations on Costs.
- (3) The entries shall be published in the Bundesanzeiger. The cost of publication shall be paid in advance by the applicant.
- (4) Any person may inspect the Register of Authors. Extracts from the Register shall be issued on request.
- (5) The Federal Minister for Justice shall be empowered to issue statutory orders
 1. regulating the form of the application and the maintenance of the Register of Authors;
 2. ordering the imposition of charges (fees and expenses) to cover administrative costs relating to the entry, the issuing of a certificate of entry and the issuing of other extracts or their certification, and regulating matters concerning the party liable for costs, the time at which charges are due, the obligation of payment in advance, exemption from charges, limitation,, the procedure for the fixing of charges, and legal remedies against the fixing of charges.
- (6) Entries made with the Leipzig City Council under Article 56 of the Law on Copyright in Works of Literature and Music of June 19, 1901, shall remain effective.

5. Do courts in your country recognize copyright registrations effected by public authorities in other countries?

Under German Copyright Law no registration, fixation or application is required. That is why there is no room for validation of foreign registrations. Regular rules for proof of evidence apply and parties may also use foreign registrations as - disprovable - evidence for circumstances in dispute.

III. PROCEDURAL QUESTIONS

1. What are the requirements for registration?

(a) Is there a deposit requirement, that is, must a fixed copy of the work be submitted with registration/recordation form?

There is no deposit requirement. The applicant does not submit a copy of the work.

(b) Is there a registration/recordation fee? If so, how much is the registration/recordation fee?

Under Article 5 of the statutory order regarding the register of anonymous and pseudonymous works registration fee is 12 Euro per work. If the author applies for registration of several works at the same time, registration fee is reduced as follows:

First work	12 Euro
Second to tenth work	5 Euro per work
From eleventh work on	2 Euro per work

The cost of publication as well as the cost of registration certification are paid by the applicant. At the time being a registration certification is 15,50 Euro.

(c) What is the average time taken to complete the registration/recordation process?

If applicant provides all necessary information and pays the cost of publication in advance, application may be completed within roundabout two weeks. In reality missing information and payments extend time of application.

2. Is there a different registration/recordation process for domestic as opposed to foreign works?

There is no different registration process for foreign works, that are protected in Germany.

3. Are files stored in digital form?

The register itself is kept in digital form since January 1, 2002, in addition to the paper based version. The files regarding the procedure of application are not digitalized.

4. Search facility of the registration/recordation system:

Any person may inspect the register and ask for an extracts from the register. There is no publicly available or online search facility. If you look at the numbers in answer to question III.5., it becomes obvious, that there is no need for such facilities. Fixed copies are not submitted to the register.

5. Please provide statistics on following registrations/recordations:

In the last 5 years less than 100 works have been registered. From that figure you may see, that this register is of minor importance.

HUNGARY

I. INSTITUTIONAL QUESTIONS

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

There is no central copyright registering body in Hungary. The works can be registered in the database of the collecting societies (Society Artisjus Hungarian Bureau for the Protection of Authors' Rights; Hungarian Society for the Protection of Audio-visual Authors' and Producers' Rights) if the author decide to do so. Other collecting societies (Hungarian Bureau for the Protection of Performers' Rights, EJI; Hungarian Alliance Of Reprographic Rights; Reprographic Society of the Hungarian Book and Periodical Writers and Publishers) don't keep any record of works.

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

No, it is not.

II. LEGAL QUESTIONS

1. 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.

As regards the activity of Artisjus, non-theatrical musical works are to be documented for collective administration purposes under the statutes and other internal regulations of Artisjus. Other kind of works can be deposited to assist to presume authorship and date creation. These can be

- Literary works (of fiction, trade, science, journalism, etc.)
- Speeches delivered in public and fixed on video or sound carrier or in writing
- Computer program creations (either application programs or operation systems) and related documentation
- Dramas, musico-dramatical works, ballets and pantomime
- Theatrical musical works with or without words
- Radio an television plays
- Cinematographic creations and other audiovisual works
- Drawings, paintings, sculptures, engravings, creations produced by lithography and designs thereof
- Artistic photographs
- Maps and other cartographic creations
- Architectural creations and designs thereof, and designs of building complexes and town planning projects
- Designs of engineering structures
- Architectural creations and designs thereof, and designs of building complexes ad town planning projects
- Designs of engineering structures
- Applied art creations and designs thereof

- Costume and scenery designs
- Industrial art designs

Three-dimensional works can be registered in two-dimensional layout.

At the same time audiovisual works or their screenplays or synopses can be registered at Filmjus too.

The registration process is the same for all categories of works.

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

No, it can not.

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

- (a) Recognition of creation? Voluntary
- (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 sanction(s) for non-compliance. ---

4. What is the legal effect of registration?

- (a) Copyright?
- (b) Related rights?

It has no direct legal effect whatsoever, copyright is acknowledged by the creation of work, but the copyright certificate provided by the collecting societies aims at assisting the authors in claiming their copyright in litigation and the identification of work.

5. Do courts in your country recognize copyright registrations effected 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?

Registration is accepted as evidence of the existence and the date of creation and the right-ownership of the work, due to the free system of evidence applicable in our procedure laws. In case of in the country of registration copyright is acknowledged by registration, the Hungarian courts consider the registered work as a work protected by copyright. There is no legal procedure to validate the registration made by foreign authorities.

III. PROCEDURAL QUESTIONS

1. What are the requirements for registration?

(a) Is there a deposit requirement, that is, must a fixed copy of the work be submitted with registration/recordation from?

Yes, there is. As regards the procedure of Filmjus, a copy of the work has to be provided for it, personally by the author. The author has to certify his identity. Following the certification of identity, the registration is made immediately. A registration number is matched to the work. The author receives a copyright certificate. Following the registration, the copy of the registered work is sent back to the author in a closed and stamped envelope.

(b) Is there a registration/recordation fee? If so, how much is the registration/recordation fee?

Concerning the registration system of Artisjus, the recordation fees are as follows:

Musical works (collective administration)	HUF 560 per work
Other works (only registration)	HUF 7500 per work
Record of copy of the works	HUF 8750 per work
(All fees inclusive of VAT)	

The registration fee is HUF 1200 per year at Filmjus. There is no registration fee for the members of Filmjus.

(c) What is the average time taken to complete the registration/recordation process?

It is about half an hour in the practice of Artisjus.

2. Is there a different registration/recordation process for domestic as opposed to foreign works or objects of related rights?

No, there is not.

3. Are there files stored in digital form?

If the client wishes to have, Artisjus will store the work in this form. The data of the work and the author are stored in a digital form in the database of Filmjus.

4. Search facility of the registration/recordation system:

- (a) Does the system have a publicly available search facility? Are there restrictions on access?
- (b) Is the search facility available online in real time?
- (c) Is access granted to the fixed copy of the work registered?
- (d) Does the general public have access to other documents submitted?

Information can be asked from Artisjus for in person or in writing, not online. There is no access to the fixed copy of the work and other documents submitted. The

registration system of Filmjus is open to the public, provided that a legal interest is certified by the claimant. It is not available to the public. By virtue of the Copyright Certificate the author authorizes Filmjus to provide the following data: the name of the author, the title of the registered work, the genre of the work, its length and the date of publication if the work was already published. Other data or documents concerning the registered works are not available to the public.

5. Please provide statistics on following registrations/recordations:

(a) Number per statistical period (last five years)

YEAR	NUMBER OF REGISTERED WORKS BY ARTISJUS
1999	643
2000	596
2001	605
2002	624
2003 <i>/until the 30th of October/</i>	517

YEAR	Number of registered works by Filmjus
1999	7
2002	14
2001	12
2002	36
2003 <i>/until today/</i>	52

(b) Number of inquiries/requests for information filed per statistical period (last five years).

An average of 30 inquiries arrive a day at Artisjus, but there were no requests for providing information about the registered data by Filmjus.

INDIA

I. INSTITUTIONAL QUESTIONS

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

Name of the body: Copyright Office, Ministry of Human Resource Development Government of India

Address: B-2/W-3, Curzon Road Barracks,
Kasturba Gandhi Road
New Delhi-110001

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

No.

II. LEGAL QUESTIONS

1. 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,

Copyright registration is done for the following categories of works:

- (a) Original literary, dramatic and musical and artistic works;
- (b) Cinematographic films; and
- (c) Sound Recording.

Registration process is similar for all categories

2. Can the subject matter related to 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 copyrights?

Sound recording is treated as a category for which registration is done. Performances, broadcasts and similar subjects related to copyrights are not registered separately but copyright is considered as a bundle of rights which include the rights to perform, broadcast, reproduce etc. Also, broadcasters have broadcast reproduction right and performers have performers right but these are not subject to registration.

3. Is copyright registration/recording mandatory or voluntary in the following circumstances;

- | | |
|---|-----------|
| (a) Recognition of creation? | Voluntary |
| (b) Transfer of rights? | Voluntary |
| (c) Initiation of judicial proceedings? | Voluntary |

- (d) Other changes in title/ownership (ship as leasing)? Voluntary

Registration is not mandatory. However, the entries in the Register of Copyrights maintained by the Copyright Office serve as prima facie evidence in any court of law.

4. What is the legal effect of registration?

- (a) Copyright?

The Register of Copyrights maintained by the Copyright Office serve as prima facie evidence of the particulars entered in it and certified copies or extracts of such entries are admissible in evidence in all Courts without further proof of production of the original.

- (b) Related rights?

For all related rights treated within the copyright of a work, the same rule as given (a) is applicable.

5. Do courts in your country recognize copyright registrations effected by public authorities in other countries? If yes, is recognition of a foreign registration.?

No separate local procedure is prescribed for recognition of a foreign registration. However, the terms of such registration will be generally governed by the Copyright laws in India.

III. PROCEDURAL QUESTIONS

1. What are the requirements for registration?

- (a) Is there a deposit requirements, that is, must a fixed copy of the work be submitted with registration/recordation from?

Not mandatory. But copies of the work are required to be enclosed with the application submitted for registration to verify the particulars. In case of unpublished documented works and sound recordings, a copy of the work with the seal of copyright office is returned to the applicant and another copy is kept in the office for record, if such copies are made available.

- (b) Is there a registration/recordation fee? If so how much is the registration/recordation fee?

Yes. The prescribed fee schedule is given at Annex-I.

- (c) What is the average time taken to complete the registration/recordation process?

At present, it takes about 5-6 months to complete the registration process. However, with the recent computerization and networking implemented in the copyright office, this period is sought to be reduced to the minimum. A cooling period of 30 days has been prescribed in the Indian Copyright Rules so as to enable other parties concerned with the work applied for registration of copyright, to lodge objections, if any.

2. Is there a different registration/recordation process for domestic as opposed to foreign works or objects related to rights?

No. All works belonging to member-countries of WIPO are treated as similar to Indian works as per the International Copyright Order, 1999.

3. Are the files stored in digital form?

No. We process on to digitize files.

4. Search facility of the registration/recordation system:

(a) Does the system have a publicly available search facility? Are there restrictions to access?

Search facility is available. No restrictions except charging a nominal fee.

(b) Is the search facility available online in real time?

Not yet.

(c) Is access granted to the fixed copy of the work registered?

Yes, if available.

(d) Does the general public have access to other documents submitted?

No.

5. Please provide statistics on following registration/recordations :

(a) Number per statistical period (last five years)

Year	No. of works registered
1998	
1999	3707
2000	1563
2001	3195
2002	4973
2003	4682

(b) Number of inquiries requests for information filed per statistical period (last five years)?

About 20.000 per year

Fee Schedule
(As prescribed under the Indian Copyright Rules)

1. For an application for registration of copyright of
 - (a) Literary, Dramatic, Musical or Artistic work Rs. 50 per work
 - (b) Provided that in respect of an artistic work which is used or is capable of being used in relation to any goods. Rs. 400 per work
2. For an application for change in particulars of copyright entered in the Register of Copyrights in respect of
 - (a) Literary, Dramatic, Musical or Artistic work Rs. 50 per work
 - (b) Provided that in respect of an artistic work which is used or is capable of being used in relation to any goods Rs. 200 per work
3. For an application for registration of copyright of a Cinematograph Film Rs. 600 per work
4. For an application for registration changes in particulars of copyright entered in the Register of Copyrights in respect of cinematograph film Rs. 400 per work
5. For an application for registration of copyright in a sound recording Rs. 400 per work
6. For an application for registration of changes in particulars of copyright entered in the Register of copyrights in respect of a sound recording Rs. 200 per work

JAPAN

I. INSTITUTIONAL QUESTIONS

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

For all copyrighted work but computer program works

Name: Agency for Cultural Affairs, Ministry of Education, Culture, Sports, Science and Technology, Government of Japan (ACA)

Legal Status: State Organization

For computer program works

Name: Software Information Center (SOFTIC)

Legal Status: A legal person established under the provision of Article 34 of the Civil Law. In 1987, ACA notified that the Commissioner designated SOFTIC as registration agency.

<relevant provisions>

Article 78bis. of Copyright Law

Other than those provided for in this Section, matters relating to registrations of program works shall be provided by another law.

Article 5 of Law on Exceptional Provisions for the Registration of Program Works

(a) The Commissioner of the Agency for Cultural Affairs may entrust a person designated by the Commissioner (hereinafter referred to as "designated registration organ") with the whole or a part of program registration business as well as business carried out upon demand mentioned in Article 2, paragraph (2), or in Article 78, paragraph (3) of the Copyright Law and business of public notice mentioned in the preceding Article (hereinafter referred to as "registration business").

(b) Designation mentioned in the preceding paragraph shall, as provided by Ministry of Education and Science Ordinance, be made upon application of a person who intends to conduct registration business.

(c) In case where the Commissioner of the Agency for Cultural Affairs entrusts the designated registration organ with registration business, he shall no longer conduct such registration business as conducted by that organ.

(d) For the application of the provisions of Article 2, paragraph (2), Article 3 and the preceding Article as well as the provisions of Article 78, paragraphs (1) to (3) of the Copyright Law to the case where the designated registration organ conducts registration business, "the Commissioner of the Agency for Cultural Affairs" in these provisions (except Article 78, paragraph (2) of that Law) shall read "the designated registration organ", and "when having made a registration mentioned in Article 75, paragraph (1)" in Article 78, paragraph (2) of that Law shall read "when the designated registration organ has made a registration mentioned in Article 75, paragraph (1)".

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

No, it isn't.

II. LEGAL QUESTIONS

1. What kind of copyright works can be registered/recorded?

All kinds of copyrighted works can be registered.

Is the registration/recordation process different for each type of copyrighted work? Please describe the differences, if any.

Concerning the computer program works, it needs to submit fixed copies of works.

2. Can the subject matter of related rights (e.g., performances, broadcasts, sound recordings) also be registered/recorded?

Yes, it can.

If yes, is there a different registration/recordation process than for works protected by copyright?

The registration process of related rights is same as that for copyrighted works.

3. Is copyright registration/ recordation mandatory or voluntary in the following circumstances?

(a) Recognition of creation?

Voluntary registration is available in recognition of creation of only computer program works.

(b) Transfer of rights?

It is voluntary.

(c) Initiation of judicial proceedings?

N/A

(d) Other changes in title/ownership (such as leasing)?

Voluntary registration is available concerning changes in registered item.

If your country has a mandatory registration/recordation system, please describe any legal sanction(s) for non-compliance.

N/A (Japan has only voluntary system)

4. What is the legal effect of registration?

(a) Copyright?

Registering date of creation (only SOFTIC)

Unless there is contrary evidence, the registered date shall be taken as the date of creation of the work.

Registering date of first publication

Unless there is contrary evidence, the registered date shall be taken as the date of first publication or first making public of the work.

Registering real name

The registered person is assumed to be the author of the work.

Registering assignment etc. of copyright

In case of transfer of rights, a third party may be opposed through registration.

Registering the establishment of publishing right etc.

In case of transfer of rights, a third party may be opposed through registration.

(b) Related rights?

Registering transfer etc. of related rights

In case of transfer of rights, a third party may be opposed through registration.

5. Do courts in your country recognize copyright registrations effected by public authorities in other countries?

Yes, they do.

If yes, is recognition automatic or is a local procedure required to validate or otherwise give effect to the foreign registration?

In Japan, courts recognize registrations automatically.

III. PROCEDURAL QUESTIONS

1. What are the requirements for registration?

(a) Is there a deposit requirement, that is, must a fixed copy of the work be submitted with registration/recordation form?

Regarding registration of computer program works, applicant needs to submit fixed copies of works.

(b) Is there a registration/recordation fee? If so, how much is the registration/recordation fee?

Registration license tax is need as follows;

Registering real name: 9,000 yen

Registering the date of first publication (first making public): 3,000 yen

Registering transfer etc. of copyright and related rights: 18,000 yen

Registering establishment of publishing right: 30,000 yen

Registering establishment of right of pledge: 4/1000 of amount of debts.

(c) What is the average time taken to complete the registration/recordation process?

From application for the registration to completion,

ACA: it takes about 1 month

SOFTIC: it takes about 3 weeks

2. Is there a different registration/recordation process for domestic as opposed to foreign works or objects of related rights?

No, there isn't.

3. Are the files stored in digital form?

Only SOFTIC stores the registered information (other than fixed copy of work) in digital form.

4. Search facility of the registration/recordation system:

Only SOFTIC provided search facility.

(a) Does the system have a publicly available search facility?

Yes, it does.

Are there restrictions on access?

No, there are not.

(b) Is the search facility available online in real time?

The facility is not available online in real time, but through SOFTIC's computers. SOFTIC's website places the data of last six months' registration, which is searchable by using search system on the website.

(c) Is access granted to the fixed copy of the work registered?

No, it isn't. Only courts can obtain the fixed copy.

(d) Does the general public have access to other documents submitted?

The general public cannot access to application form and attached documents submitted, but can browse the fixed copy of original record of registration and so on.

5. Please provide statistics on following registrations/recordations:

- (a) Number per statistical period (last five years)
- (b) Number of inquiries/requests for information filed per statistical period (last five years).

Number of Application for Registration per Statistical Period

Agency for Cultural Affairs

classification	1998	1999	2000	2001	2002	Total
registering a real name	12	41	13	38	42	146
registering the date of first publication of works	116	245	132	141	242	876
registering the date of first making public of works	122	195	196	259	193	965
registering transfer of copyright	149	258	104	494	237	1242
registering establishment of pledge	57	29	1	0	0	87
application for change of registration	11	5	473	4	69	562
application for delation of registration	48	12	0	1	23	84
application for correction of registration	0	3	0	0	0	3
registration of trust	0	0	0	0	0	0
registration of restraint on alienation of copyright	1	0	0	0	4	5
registration of restraint on alienation of copyright	1	0	0	0	0	1
registration of establishment of publishing right	0	5	7	13	8	33
registration of related rights	15	31	1	0	1	48
Total	532	824	927	950	819	4052

grant of transcript (abstract) of register	180	225	173	157	54	789
browse of transcript of register	8	2	15	6	14	45

Number of Application for Registrations per Statistical Period

SOFTIC (Software Information Center, Japan)

Types of registration

Type	FY 1998	1999	2000	2001	2002
Registration of the date of creation	372	360	321	369	438
Registration of the date of first	8	16	15	7	3
Registration of the true name	0	0	5	0	0
Registration of copyright (in case of copyright transfer, etc.)	96	99	128	90	136
Total(*)	476	475	469	466	577

Categories of program

Category	FY1998	1999	2000	2001	2002
System program	75	57	38	50	38
General purpose application program	125	90	100	81	108
Special purpose application program	215	253	223	270	321
Total(*)	415	400	361	401	467

(*) The total number of applications for program registration exceeds the total number of its categories of program, because some programs are counted in two or more different types.

Registration from abroad

Country / Region	FY1998	1999	2000	2001	2002
U.S.A.	5	7	6	0	0
United Kingdom	1	1	0	0	0
Israel	0	0	0	0	0
Korea	0	1	4	0	2
Switzerland	0	0	0	0	0
Spain	0	0	0	0	0
China	3	1	5	0	1
Germany	0	0	0	0	0
France	0	0	0	0	0
Australia	0	6	0	0	0
Greece	0	0	1	0	0
Total	9	16	16	0	3

A fiscal year (FY) starts in April and ends in March of the next year.

Number of Requests for Information Filed per Statistical Period

Year	1998	1999	2000	2001	2002
number of requests	83	238	130	185	109

MEXICO

I. INSTITUTIONAL QUESTIONS

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

The body is known as the National Copyright Institute, Directorate of the Public Copyright Registry. This is a decentralized body attached to the Secretariat of Public Education (Article 208, Federal Copyright Law-LFDA).

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

No.

II. LEGAL QUESTIONS

1. 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.

Original and derived works belonging to the following branches:

- I. Literary;
- II. Musical, with or without lyrics;
- III. Dramatic;
- IV. Dance;
- V. Pictorial or drawing;
- VI. Sculptural and three-dimensional;
- VII. Caricatural and strip cartoon;
- VIII. Architectural;
- IX. Cinematographic and other audiovisual works;
- X. Radio and television programs;
- XI. Computer programs;
- XII. Photographic;
- XIII. Works of applied art including graphic or textile design, and
- XIV. Compilations, comprising collections of works such as encyclopedias, anthologies and works or other elements such as databases, provided that said collections, in terms of their selection or the arrangement of their content or subject matter, constitute an intellectual creation (Articles 13, 163(I) and (II), LFDA).

The registration process is the same for all categories.

2. 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?

Yes, videograms, phonograms and books may also be entered in the Registry (Article 57(V), Regulations under the Federal Copyright Law-RLFDA).

The process of registration is the same as that for the registration of copyright works.

3. Is copyright registration/recording mandatory or voluntary in the following circumstances:

(a) Recognition of creation

In this case, it is voluntary, although the LFDA indicates that the recognition of copyright and related rights does not require registration or documentation of any kind, and is not subject to any formality being completed (Article 5, LFDA).

(b) Transfer of rights

In this case, the LFDA states that the acts, agreements and contracts through which economic rights are transferred shall be entered in the Public Copyright Registry so that they may take effect against third parties (Article 32, LFDA).

(c) Initiation of judicial proceedings

In this regard, the LFDA does not establish the idea of obligation and therefore the principle is followed whereby the recognition of copyright and related rights does not require registration or documentation of any kind, and is not subject to any formality being completed (Articles 5 and 213, LFDA).

(d) Other changes in title/ownership (such as leasing)?

As mentioned previously, in the case of transfer of rights their registration is required, however, in the case of licenses for use the Copyright Law does not establish any obligation to register.

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

4. What is the legal effect of registration?

(a) Copyright?

(b) Related rights?

The Public Copyright Registry is designed to guarantee the legal security of authors, holders of related rights and holders of respective economic rights, together with their legal successors, and also to provide appropriate publicity for works, acts and documents by means of their registration. Entries in the Registry establish the presumption that the facts and acts recorded therein are true, unless proven otherwise. All entries exclude the rights of third parties. In the case of dispute, the effects of registration shall be suspended until such time as a firm resolution is reached by the competent authority (Articles 162 and 168, LFDA).

5. 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?

Yes, they are recognized provided that in Mexico the protection granted by the LFDA is granted to works from the time when they are fixed on a material carrier and the recognition of copyright and related rights does not require registration or documentation of any kind, nor is it subject to any formality being completed (Article 5, LFDA).

Furthermore, the RLFDA state that documents from abroad which are submitted for the purposes of verifying the ownership of copyright or related rights, shall not require legalization for the purposes of their registration. Their translation, truthfulness and authenticity are the responsibility of the applicant (Article 61, RLFDA).

III. PROCEDURAL QUESTIONS

1. What are the requirements for registration?

- (a) Is there a deposit requirement, that is, must a fixed copy of the work be submitted with registration/recordation form?

Yes, the author must submit two equal copies of the work to be registered and, at the end of the process, one copy is returned to him duly labeled with the registration data, and the other copy remains permanently in the possession of the National Copyright Institute as evidence of registration.

The copies of the work must be submitted on a material carrier chosen by the author, provided that the carrier allows the work to be handled.

- (b) Is there a registration/recordation fee? If so, how much is the registration/recordation fee?

Yes, currently the fee stands at \$128.00 (one hundred and twenty eight pesos 00/100 m.n.). This amount is updated twice yearly.

- (c) What is the average time taken to complete the registration/recordation process?

The Registry has two weeks, from the time the application is received, to make the appropriate ruling (Article 58, RLFDA).

2. Is there a different registration/recordation process for domestic as opposed to foreign works or objects of related rights?

The process does not differ, although the Copyright Law provides that foreign authors or rightholders and their legal successors shall enjoy the same rights as Mexican authors (Article 7, LFDA).

3. Are the files stored in digital form?

Yes, the National Copyright Institute currently has a digitalization system, by means of which the files relating to the registrations of works are stored in digital form.

4. Search facility of the registration/recordation system:

- (a) Does the system have a publicly available search facility? Are there restrictions on access?

Yes, in accordance with the LFDA the Registry is obliged to supply the persons who so request with information on the registrations and the documents entered in the Registry (Article 164(II), first paragraph, LFDA).

Yes, restrictions exist in relation to computer programs, publishing contracts and unpublished works, and copies may be obtained only with the consent of the holder of the economic right, or by court order (Article 164(II), first paragraph, LFDA).

- (b) Is the search facility available online in real time?

No, it is not available on the Internet.

- (c) Is access granted to the fixed copy of the work registered?

No, such a service is not available.

- (d) Does the general public have access to other documents submitted?

Yes, with the restrictions previously mentioned. Similarly, where the person requires a copy of the documentary evidence of registration, the Institute dispatches a certified copy, but under no circumstances allows originals to be removed from the Registry and, in the case of works fixed on material carriers other than paper, the applicant shall provide the technical means required for duplication (Article 164(II), LFDA).

5. Please provide statistics on following registrations/recordations:

- (a) Number per statistical period (last five years)

1998	19,574 registered works
1999	26,141 registered works
2000	25,814 registered works
2001	27,492 registered works
2002	28,741 registered works

- (b) Number of inquiries/requests for information filed per statistical period (last five years)

1998	1,259 searches for records contained in the Registry
1999	1,785 searches for records contained in the Registry
2000	2,223 searches for records contained in the Registry
2001	2,203 searches for records contained in the Registry
2002	7,049 searches for records contained in the Registry

THE PHILIPPINES

I. INSTITUTIONAL QUESTIONS

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

The copyright registering/recording entities in the Philippines are the National Library and the Supreme Court of the Philippines library.

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

The copyright registry is not currently interconnected to any other copyright data system.

II. LEGAL QUESTIONS

1. 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.

The Intellectual Property Code of the Philippines (Republic Act No. 8293) provides that “Literary and artistic works, hereinafter referred to as ‘works’, are original intellectual creations in the literary and artistic domain protected from the moment of their creation and shall include in particular:

- (a) Books, pamphlets, articles and other writings;
- (b) Periodicals and newspapers;
- (c) Lectures, sermons, addresses, dissertations prepared for oral delivery, whether or not reduced in writing or other material form;
- (d) Letters;
- (e) Dramatic or dramatico-musical compositions; choreographic works or entertainment in dumb show;
- (f) Musical compositions, with or without words;
- (g) Works of drawing, painting, architecture, sculpture, engraving, lithography or other works of art; models or designs for works of art;
- (h) Original ornamental designs or models for articles of manufacture; whether or not registrable as an industrial design, and other works of applied art;
- (i) Illustrations, maps, plans, sketches, charts and three-dimensional works relative to geography, topography, architecture or science;
- (j) Drawings or plastic works of a scientific or technical character;
- (k) Photographic works, including works produced by a process analogous to photography; lantern slides;
- (l) Audiovisual works and cinematographic works and works produced by a process analogous to cinematography or any process for making audio-visual recordings;
- (m) Pictorial illustrations and advertisements
- (n) Computer programs; and
- (o) Other literary, scholarly, scientific and artistic works.” (Sec. 172.1)

The IP Code likewise provides that “The following derivative works shall also be protected by copyright;

- (a) Dramatizations, translations, adaptations, abridgments, arrangements, and other alterations of literary or artistic works; and
- (b) Collections of literary, scholarly or artistic works, and compilations of data and other materials which are original by reason of the selection or coordination of arrangement of their contents.”(Sec. 173)

The Copyright Safeguards and Regulations dated 5 July 1999 provides that: “Sec. 6. Works that May be Registered and Deposited. The following works may be registered and deposited;

- (a) Dramatic or dramatic-musical compositions, choreographic works or entertainment in shows;
- (b) Photographic works including works produced by a process analogous to photography, lantern slides;
- (c) Audiovisual works and cinematographic works and works produced by a process analogous to cinematography or any process for making audio-visual recordings;
- (d) Pictorial illustrations and advertisements;
- (e) Computer programs;
- (f) Other literary, scholarly, scientific and artistic works;
- (g) Sound recordings;
- (h) Broadcast recordings.”(Rule 5)

The National Library has issued Copyrights Safeguards and Regulations which provides for, among others, the registration and deposit of work and the procedure for the same and the effectivity and effects of Registration and Deposit. The Regulations provide for the mandatory deposit of the following: books; pamphlets; articles and other writings periodicals and newspapers; lectures; sermons; addresses; dissertations prepared for oral delivery whether or not reduced in writing or other material form; letters; musical compositions with or without words; works of drawing; painting, architecture; sculpture; engraving; lithography or other works of art; models or designs for works of art; original ornamental designs or models for articles of manufacture, whether or not registrable as an industrial design and other works of applied art; illustrations; maps; plans; sketches; charts and three-dimensional works relative to geography; topography; architecture or science; and drawings or plastic works of a scientific or technical character.

The same Regulations provide for the voluntary deposit of the following: Dramatic or dramatic-musical compositions, choreographic works or entertainment in shows; Photographic works including works produced by a process analogous to photography, lantern slides; Audiovisual works and cinematography or any process for making audiovisual recordings; Pictorial illustrations and advertisements; Computer programs; Other literary, scholarly, scientific and artistic works; Sound recordings; and Broadcast recordings.

2. 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?

Yes, the subject matter of related rights may be registered. There is no difference in the registration process for works protected by copyright and those involving related rights.

3. 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 sanction (s) for non-compliance.

a) The principle observed in this jurisdiction is that works are protected by the sole fact of their creation (Sec. 172.2 IP Code). However, the IP Code requires the mandatory deposit of works stated in the first paragraph of the answers to question II. 1 above, for the purpose of completing the records of the National Library and Supreme Court Library.

b) Section 182 of the IP Code provides that “an assignment or exclusive license may be filed in duplicate with the National Library upon payment of the prescribed fee for registration in books and records kept for the purpose. Upon recording, a copy of the instrument shall be returned to the sender with a notation of the fact of record. Notice of the record shall be published in the IPO Gazette.” It is apparent that from the use of the phrase “may be filed”, the intent of the law is not to make recordation a mandatory requirement.

c) There are no rules providing that registration is a pre-requisite to the initiation of judicial proceedings.

d) There is likewise no provision in the law making registration mandatory in other changes of title/ownership.

4. What is the legal effect of registration?

- a) Copyright?
- b) Related rights?

The registration and deposit of works (such as those protected by copyright and those involving related rights) are purely for the purpose of recording the date of registration and deposit of the work and shall not be conclusive as to the copyright ownership or the term of copyrights or the rights of the copyright owner, including neighboring rights (Section 2, Rule 7, Copyright Safeguards and Regulations).

5. Do courts in your country recognize copyright registrations effected 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?

Yes, Philippine courts are mandated to apply international treaties entered into or ratified by the Philippines. These treaties have the force and effect of a law within the Philippines. According to Sec. 4, Rule 6 of the Copyright Safeguards and Regulations, however, all certifications and documents which are executed outside the Philippines shall be duly authenticated by either the proper diplomatic or consular representative of the

Philippines, or by a notary public authorized to authenticate documents under the law of the country in which the certification and documents are executed.

III. PROCEDURAL QUESTIONS

1. What are the requirements for registration?

(a) Is there a deposit requirement, that is, must a fixed copy of the work be submitted with registration/recordation form?

Section 4, Rule 5 of the Copyright Safeguards and Regulations provides that; “Works shall be Registered and Deposited. Two (2) copies or reproductions of the following classes of works, and transfers and assignments related thereto, shall be registered and deposited with the TNL Copyright Division and another two (2) copies with the SCL;

- (a) Books, pamphlets, articles and other writings;
- (b) Periodicals and newspapers;
- (c) Lectures, sermons, addresses, dissertations prepared for oral delivery whether or not reduced in writing or other material form;
- (d) Letters;
- (e) Musical compositions with or without words

Section 5 of the same rules states that: “Replicas and Pictures. For practical purposes, only replicas and pictures of the following classes of works, shall be registered and deposited with TNL Copyright Division:

- (a) Works of drawing, painting, architecture, sculpture, engraving, lithography or other works of art, models or designs for works of art;
- (b) Original ornamental designs or models for articles of manufacture, whether or not registrable as an industrial design, and other works of applied art;
- (c) Illustration, maps, plans, sketches, charts and three-dimensional works relative to geography, topography, architecture or science;
- (d) Drawings or plastic works of a scientific or technical character.”

Section 6 of the Rules states that: The following works may be registered and deposited: dramatic or dramatic-musical compositions, choreographic works or entertainment in shows; photographic works including works produced by a process analogous to photography, lantern slides; audiovisual works and cinematographic works and works produced by a process analogous to cinematography or any process for making audiovisual recordings; pictorial illustrations and advertisements; computer programs; other literary, scholarly, scientific and artistic works; sound recordings; and broadcast recordings.

(b) Is there a registration/recordation fee? If so, how much is the registration/recordation fee?

Yes, the recordation fee is 120 pesos (roughly 2.2 US dollars) for each application.

(c) What is the average time taken to complete the registration/recordation process?

It takes ten (10) days on the average to complete the processing of the application.

2. Is there a different registration/recordation process for domestic as opposed to foreign works or objects of related rights?

The procedure for the registration for domestic and foreign works is the same.

3. Are the files stored in digital form?

No.

4. Search facility of the registration/recordation system:

(a) Does the system have publicly available search facility? Are there restrictions on access?

The National Library presently has an index card search facility available to the public and the development of a computerized search facility is ongoing.

(b) Is the search facility available online in real time?

None.

(c) Is access granted to the fixed copy of the work registered?

According to Section 1, Rule 9, "all copies of works registered and deposited with TNL and the SCL are deemed the property of the Philippine government. All copies of works registered and deposited with TNL and the SCL, except for unpublished works, shall be open to public inspection, subject to the following conditions;

(a) The Director of TNL, may open to public inspection only copies of deposited works that are fragile, rare, frequently used, or in other similar conditions;

(b) Under no circumstances will the public be allowed to reproduce any of the works during inspection;

(c) A written request signed by the interested party shall be submitted to TNL at least one (1) day prior to the requested inspection, and shall specify the work to be inspected, his/her purpose, his/her principal together with the proper authorization from the principal if he/she is an agent or representative, and the preferred date and time of inspection;

(d) Upon approval of the request and payment of the inspection and handling fees, the interested party, on the date and time specified shall be accompanied by a designated TNL Copyright employee to an inspection officer to ascertain that the party does not have in his/her possession any camera, video or any other gadget for reproduction, and thereafter to the custodian of the work;

(e) The custodian shall designate the place for inspection after the party has signed the inspection register, and the work will thereafter be brought to

the party by a TNL Copyright employee who shall remain to watch and ensure that the work or any part thereof is not copied and remains intact during the entire period of inspection.

SPAIN

I. INSTITUTIONAL QUESTIONS

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

The name is the General Intellectual Property Registry, comprising in turn the Central Registry, Territorial Registries and a Coordination Commission. The Central Registry is attached to the Ministry of Education, Culture and Sport of the Central Administration, with registration powers for those Autonomous Communities that have not had their own Registry transferred, while the Territorial Registries are attached to the Autonomous Communities to which said Registry has already been transferred. The Coordination Commission operates as a collegiate body for the unification of criteria.

The validity of registry entries is the same for all the Registries.

The Registry is governed by the Law on Intellectual Property (Royal Legislative Decree No. 1/1996, of April 12), Articles 144 and 145, and by the Registration Regulations (Royal Decree No. 281/2003, of April 12).

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

An interconnection exists between the ten Territorial Registries and the Central Registry.

II. LEGAL QUESTIONS

1. 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.

Any copyright over literary, artistic or scientific creations may be registered, provided that this does not infringe the national and international intellectual property rules laid down nor those contained in the Registration Regulations.

In basic terms, a different procedure does not exist for each type of creation, other than those derived from the formal differences regarding the request and rule-related models applicable to each case.

2. Can the subject matter or 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?

Related rights can be registered. The fundamental difference as regards copyright relates to the original entry, which varies in one or other case.

3. Is copyright registration/recordation mandatory or voluntary in the following circumstances?

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

If your country has a mandatory registration/recordation system, please describe any legal sanction(s) for non-compliance.

Registration is voluntary in all cases.

4. What is the legal effect of registration?

- (a) Copyright?
- (b) Related rights?

What registration provides is a means of proof, i.e. a presumption of authorship, unless proof to the contrary is provided. This applies both to copyright and related rights.

5. Do courts in your country recognize copyright registrations effected 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?

There is insufficient data regarding the court decisions taken on this matter.

III. PROCEDURAL QUESTIONS

1. What are the requirements for registration?

- (a) Is there a deposit requirement, that is, must a fixed copy of the work be submitted with registration/recordation form?

Yes. A copy of works whose rights are to be registered must be provided; if the copy is in paper form, it must be bound and paginated. Electronic copies are also acceptable, which can be examined by the Registry: diskette, CD, DVD and videotape.

- (b) Is there a registration/recordation fee? If so, how much is the registration/recordation fee?

Yes. The fee for an application for entry in the Central Register is 11.26 euros, although each Autonomous Community has the power to establish its own rates in relation to the Territorial Registries subject to its administrative authorities.

- (c) What is the average time taken to complete the registration/recordation process?

The maximum period established by the Registration Regulations to resolve any application for registration is six months.

2. Is there a different registration/recordation process for domestic as opposed to foreign works or objects of related rights?

No.

3. Are the files stored in digital form?

The copy provided is stored in the same form in which it was submitted; the file generated is archived in paper form. The data are stored in a computer database.

4. Search facility of the registration/recordation system:

(a) Does the system have a publicly available search facility? Are there restrictions on access?

Registration entries are public and are produced by issuing certificates, valid as evidence; ordinary notes, simple information notes and computer access.

Is the search facility available online in real time?

Yes, if a right is already registered. This is not the case, however, for the record procedure.

(b) Is access granted to the fixed copy of the work registered?

Only to persons providing proof of authorship or that they hold the rights of exploitation.

(c) Does the general public have access to other documents submitted?

Only those people providing proof of direct or legitimate interest.

5. Please provide statistics on the following registrations/recordations:

(a) Number per statistical period (last five years)

1998:.....	37,752
1999:.....	32,546
2000:.....	27,947
2001:.....	25,110
2002:.....	30,891

(b) Number of inquiries/requests for information filed per statistical period (last five years)

Certificates	Ordinary notes	Copies of work
1998:.....139	49	4
1999:.....243	448	11
2000:.....431	520	54
2001:.....343	478	50
2002:.....261	384	24
Total.....1,417	1,879	143

UNITED STATES OF AMERICA

I INSTITUTIONAL QUESTIONS

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

The copyright registering body in the United States of America is the U.S. Copyright Office. It administers the U.S. copyright law under Chapter 7 of title 17, U.S.C., which gives the Register of Copyrights the responsibility of performing all administrative functions and duties contained in title 17, including inter alia, registration and recordation. See 17 U.S.C. § 701. The Copyright Office is a department of the Library of Congress.

2. Is the copyright registry interconnected to any other copyright data systems?

No. The Copyright Office registry of registrations and recordations is not connected to external copyright data systems, such as those maintained by private music performing rights or mechanical rights organizations except to the extent those bodies provide links to the Copyright Office home page. The copyright registry is interconnected within the Copyright Office data system to the extent that the registration and recordation files, along with other databases, are available to the public from the Copyright Office home page. Other computer files include, for example, files concerning notices of intention to enforce copyrights (GATT filings), Online Service Providers, and Vessel Hull Designs. See the Copyright Office website, at www.loc.gov/copyright, "Search Copyright Records", where the public may conduct online searches.

II. LEGAL QUESTIONS

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

(a) Kinds of works registrable/recordable

Under section 410 of the copyright law, the categories of original works of authorship that can be registered include (1) literary works, including computer programs; (2) musical works; (3) dramatic works; (4) choreography and pantomime; (5) pictorial, graphic and sculptural works; (6) motion pictures and other audiovisual works; (7) sound recordings; and (8) architectural works. 17 U.S.C. §§ 102(a), 410. Compilations and derivative works that constitute original works of authorship are also registrable. 17 U.S.C. § 103.

A document may be recorded relating to any kind of copyrighted work. See the discussion at section (c) below.

(b) Whether the registration, recordation process differs for each type of work

Neither the registration nor the recordation process differs according to the type of work protected by copyright. Different statutory provisions apply to registration of mask works and

vessel hull designs, which are subject to sui generis protection, See Chapters 9 and 13 of title 17. These works are registered according to their respective statutory provisions. At the end of the registration process, the Library of Congress may add some copyright deposits to its collections. The Library of Congress does not generally add mask works or vessel hull designs to its collections.

(c) Differences, if any

Having stated that there is no difference in the registration/recordation process for different types of works, there is a basic distinction in U.S. copyright law between registration and recordation. Registration differs from recordation in that copyrighted works are registered; documents—original written instruments relating to copyright, such as assignments—are recorded. Claims to copyright are submitted to the Copyright Office on prescribed forms and entered into Copyright Office records after clearing the examination process. Documents are submitted to the Copyright Office for recordation and returned to the submitter after microfilming. Documents are not examined for legal sufficiency, but to be recordable, a document must contain the proper signature or signatures, be complete by its terms, and be capable of imaging. See Circular 12, “Recordation of Transfers and Other Documents.”

2. Can the subject matter of related rights (e.g., performances, broadcasts, sound recordings) also be registered/recorded?

U.S. copyright law does not make a distinction between “copyright” and “related rights.” Performances, broadcasts and sound recordings are subject to copyright protection, as with the other types of authorship, to the extent the subject matter is fixed in a tangible medium of expression and meets the requirements of originality. Fixation in a copy or phonorecord is a condition of U.S. federal copyright. 17 U.S.C. § 102 (a). The registration and recordation requirements for such subject matter is the same as described for other copyrighted works.

If yes, is there a different registration/recordation process than for works protected by copyright?

The registration and recordation procedures are the same for sound recordings as for other works.

3. Is copyright registration/recordation mandatory or voluntary in the following circumstances?

(a) Recognition of creation?

In this circumstance, copyright registration is voluntary. Federal copyright recognizes creation automatically at the time a work is fixed in tangible form. 17 U.S.C. § 102. Copyright registration is permissive at any time during the subsistence of the copyright term. 17 U.S.C. § 408(a). Recordation of a document relating to copyright is not mandatory to recognize creation.

(b) Transfer of rights?

Copyright registration and recordation are voluntary in regard to transfer of rights. Under section 205(c) of the copyright law, however, recordation in the Copyright Office provides additional benefits. Where a document that refers to a registered work is recorded, recordation constitutes constructive notice of the facts stated in the document. A recorded document also receives priority over conflicting transfers or exclusive licenses that have not been recorded. 17 U.S.C. §§205(d) and 205(e).

(c) Initiation of judicial proceedings?

Registration is voluntary for initiation of proceedings related to non-U.S. works. 17 U.S.C. 411(a). For United States works, as this term is defined in Section 101, registration is mandatory in order to institute legal action; in such cases, the court has no jurisdiction until registration has at least been filed, and sometimes completed. In all cases where a registration has been attempted and refused, the copyright owner is entitled to institute a legal action for infringement. 17 U.S.C. § 411(a). The cases are not uniform, so that in some districts the court will accept a case where registration has been filed but not completed, in others, the court will expect a registration to have issued. These requirements do not apply to section 106(A) rights (moral rights) in works of visual arts, as defined in 17 U.S. C. § 101.

Recordation of a transfer is not mandatory in order to initiate judicial proceedings.

(d) Other changes in title/ownership (such as leasing)?

Recordation of leases or other changes in title or ownership is not mandatory.

If your country has a mandatory registration/recordation system, please describe any legal sanction(s) for non-compliance.

Rather than legal sanctions, the registration system provides additional benefits for works that are registered. For example, registration prior to infringement or within three months of publication enables a court to award the litigant extraordinary remedies, i.e., statutory damages and attorney's fees, when the copyright owner prevails in an infringement action. 17 U.S.C. § 412. The court is without jurisdiction to award such damages in the absence of timely registration, although the court may award actual damages, profits and other remedies, under Chapter 5 of the Copyright Act.

4. What is the legal effect of registration?

(a) Copyright?

Registration made before or within the first five years after publication provides prima facie evidence of the truth of the facts stated in the copyright certificate and prima facie evidence of the validity of the claim. 17 U.S.C. § 410. Registration of renewal claims within the year before expiration of the original term is also entitled to prima facie evidence of the claim's validity and veracity. 17 U.S.C. §304(a)(4). Registration of a renewal claim within the year before expiration of the original term also entitles the owner to further license the use of a derivative work prepared under a previous license or transfer. *Id.*

(b) Related rights?

Related rights are treated the same as copyright to the extent that those rights constitute authorship which is fixed in tangible form.

5. Do courts in your country recognize copyright registrations effected 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?

There is no provision in the U.S. copyright statute to recognize copyright registrations effected by public authorities in other countries. Nor have any cases been found that recognize foreign copyright registration. An owner of a foreign work need not register his or her claim in the United States or elsewhere in order to bring suit in U.S. courts. 17 U.S.C. § 411(a). Registration in the United States, however, does provide additional benefits. See the discussion following question II.3(d) and II. 4.

III. PROCEDURAL QUESTIONS

1. What are the requirements for registration?

Three elements are required for U.S. registration: 1) a completed registration form; 2) a fee; and 3) a complete copy or phonorecord, or identifying material. These elements must generally be submitted in the same package and mailed to the Register of Copyrights at 101 Independence Ave. SE, Washington, DC 20559-6000. The Copyright Office prescribes different forms for different types of works, e.g. Form TX, for literary works; Form PA, for works of the performing arts; Form SR, for sound recordings; and Form VA, for works of visual arts. See our website for additional information concerning these and other prescribed registration forms.

(a) Is there a deposit requirement, that is, must a fixed copy of the work be submitted with registration/recordation form?

For original or basic registrations, a fixed copy, phonorecord, or identifying material for the work must be deposited. Only one deposit copy or phonorecord of the first published edition is required for registration of works first published outside the United States. In general, two deposit copies or phonorecords are required for works first published in the United States. 17 U.S.C. §408(b)(3). No deposit is required for renewal registration, per se. However, a deposit is required for renewal of works that were not registered during the original term. No deposit is required for a supplementary registration (Form CA), which aims to correct or amplify a basic registration.

The provision of fixed representations of the copyrighted work is governed by regulations. The regulations also govern mandatory deposit for the Library of Congress, which may be combined with registration. See 17 U.S.C. § 407; 37 C.F.R. 202.19-202.21. Additionally, the deposit requirements are detailed in Copyright Office circulars pertaining to specific types of works, e.g., Circular 40a, Deposit Requirements for Visual Arts Material; Circular 50, Musical Compositions; and Circular 56, Copyright for Sound Recordings.

The Copyright Office website provides further information concerning specific procedures and forms, including instructions on how to complete forms. No deposit of the work is required to be submitted for recordation of documents. An original, signed document or a verified copy of the document itself must be submitted in such cases.

(b) Is there a registration/recordation fee? If so, how much is the registration/recordation fee?

The fee for basic registration is \$30 dollars, payable in U.S. funds. The fee for renewal registration is \$60, with an additional \$30 fee for an addendum when no original registration was made. The fee for supplementary registration is \$100. The basic fee for recordation is \$80 for a document listing one title. For documents listing multiple titles a \$20 fee is added per group of 10 titles or fewer.

The fee is usually submitted by check, or U.S. bank draft, although entities may establish a deposit account, into which remitters pay for copyright service fees in advance. See Circular 4, on our website.

(c) What is the average time taken to complete the registration/recordation process?

The Copyright Office's average time for completion of a registration is 90 days. The average time taken to complete the recordation of a document is 105 days.

2. Is there a different registration/recordation process for domestic as opposed to foreign works or objects of related rights?

The registration and recordation processes for domestic works are the same as for foreign works.

3. Are the files stored in digital form?

Since 1978, registration and recordation cataloging information has been stored in digital form. Cataloging information concerning works registered before 1978 is stored on catalog cards in the Copyright Office. In addition, tangible copies of the deposits and forms themselves are stored in the form submitted. The Copyright Office is developing a new electronic system as part of a reengineering program that began in 2000. One of the goals is to receive more registration submissions for processing and storage in digital form. The system is expected to be fully implemented in 2006.

4. Search facility of the registration/recordation system: Does the system have a publicly available search facility? Are there restrictions on access?

The Card Catalog of pre-1978 records is available for public search in the Copyright Office during business hours. For records from 1978 to present, the online search system, including the Copyright Office History Monograph file (registrations), and the Copyright Office History Documents file (recordations), is available from our website. There are no restrictions on access to these files.

- (a) Is the search facility available online in real time?

Yes. There is a time lag of approximately 90 days between the cataloging of the record and the appearance of the record in the online registration system. Information about the records is available by telephone prior to availability of the catalog record.

- (b) Is access granted to the fixed copy of the work registered?

Copyright owners are granted access to the fixed copy of their registered work and may receive reproductions without restriction. 37 C.F.R. § 201.2(d). Persons who are not copyright owners are granted access to works under prescribed circumstances. *Id.* Compendium of Copyright Office Practices, Compendium II, §§ 1901 ff.(1988). Under supervision, these parties may inspect a copy of a deposited work and take limited notes during inspection, but may not make copies. *Id.* Upon submission of a litigation statement involving a work, a party to a lawsuit or that person's legal representative may obtain a copy of the work. Additionally, a court may order the Copyright Office to produce a copy of the work. 37 C.F.R. § 201.2(d)(2).

- (c) Does the general public have access to other documents submitted?

Upon payment of applicable service fees, the general public may request other documents, for example, correspondence submitted in connection with registration, or application forms. Access to materials while they are being processed, that is, prior to registration or refusal of registration, is prescribed. In exceptional cases, upon a showing of good cause, the Register may grant special permission to obtain access to in process files. Access to certain materials submitted in connection with registration—financial information, for example, is generally not available. Nor is access granted to information concerning the privacy of individuals or internal business matters relating to Copyright Office procedures. See 37 C.F.R. § 201.2 and the Compendium of Copyright Office Practices, Compendium II, at §§ 1902.08, 1903.

5. Please provide statistics on the following registrations/recordations:

- (a) Number per statistical period (last five years)

The number of registrations of claims to copyright made over the last five years is 2,766,935.

The number of recordations of documents pertaining to copyright made over last five years is 77,192.

- (b) Number of inquiries/requests for information filed per statistical period (last five years).

The number of non-fee information service requests filled over the last five years is 1,880,015.

[End of Annex III and of document]