

# WIPO Questionnaire for Survey on Copyright Registration and Deposit Systems

## Answers from Jamaica, June 2010

### II. QUESTIONNAIRE

#### A. COPYRIGHT REGISTRATION AND RECORDATION

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

- Intellectual Property Service Centre (IPC)
- The IPC is a Registered Not for Profit Company incorporated under the Laws of Jamaica. It is a Company limited by guarantee not having a Share Capital.
- The IPC board of directors includes representatives from the National Library of Jamaica (NLJ) the University of the West Indies (Mona) Archives, the Jamaica Intellectual Property Office and the Jamaican Copyright Licensing Agency.

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

- 7 Stanton Terrace, Kingston 6, Jamaica, Tel: (876) 946-1592, Fax: (876) 978-2338
- Opening Hours Monday – Friday 8:30am – 5 pm

3. Does the copyright registering/recording body have a webpage and e-mail address?

- E-Mail: [ipc@cwjamaica.com](mailto:ipc@cwjamaica.com) and
- Website: [www.ipcentre.org.jm](http://www.ipcentre.org.jm) (currently not operational)

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

No.

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

There is no statutory requirement for copyright recordation/registration in Jamaica.

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

Under the voluntary copyright recordation system provided by the IPC all works qualifying for copyright protection under the Copyright Act 1993 can be registered; i.e. original literary, dramatic, musical and artistic works; sound recordings, films, broadcasts and cable programmes and typographical arrangements of published editions. See the Copyright Act s. 6(1).

The procedures are the same for each type of work.

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

Broadcasts and sound recordings are treated as copyright subject matter under the Copyright Act and can be registered.

A performance is not registrable by itself but may form part of a dramatic work, recording or broadcast which is registrable.

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

N/A

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

Yes. The details of the transfer or exclusive licence should be provided on the requisite copyright claim form.

9 Is there a possibility to record a security interest in the copyright or related right?

No. This is not specifically provided for in the procedures for recordation.

If so, what are the legal requirements and effects of such recordation?

10. What is the legal effect of registration?

As part of the IPC's recordation process the Applicant is required to inscribe on the work itself his name, the year in which the work was created or first published and the copyright notice (i.e. ©) or the word "Copyright".

Under the Copyright where a name purporting to be that of the author appeared on a literary, dramatic, musical or artistic work when it was made or on copies of the work as published it will be presumed by the court in any action brought in respect of infringement of copyright, moral rights or related rights, that that person is the author and also the copyright owner until the contrary is proved (See Section 44(2), Copyright Act). Similar presumptions apply to labels and markings on sound recordings, computer programs and films. (See Section 45, Copyright Act).

There is no statutory provision under the Copyright Act relating to the legal effect of certificates of registration.

However, the declaration and claim form signed by the claimant, the certificate of registration and receipt for payment of the fee issued by the IPC and the National Library of Jamaica logs noting the date of receipt and the description of the claimant and the deposited work, are all treated as evidence of the facts stated therein, under the relevant provisions of the Evidence Act, unless rebutted.

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

- (a) Recognition of creation? **Voluntary**
- (b) Transfer of rights? **Voluntary**. Note that Deeds of Assignments may also be recorded at the Island's Record Office.
- (c) Initiation of judicial proceedings? **Voluntary**
- (d) Other changes in title/ownership (such as leasing)? **Voluntary**

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

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

Copyright registrations from foreign public authorities are given the same weight as other like evidence.

13. What are the requirements for registration?

- (a) What are the mandatory elements of the request for registration/recordation?

The applicant is required to:

1. Obtain a Copyright Declaration Form (in duplicate) from the IPC
2. Take the Declaration Form for completion along with a copy or true representation of the work (e.g. hard copy, photograph, digital copy or detailed drawing) to a Justice of the Peace or Notary Public.
3. Inscribe on the work itself (1) the claimant's name (2) the year in which the work was created or first published and (3) the copyright notice (i.e. ©) or the word "Copyright".
4. Complete and sign the Declaration Form (in duplicate) in the presence of the Justice of the Peace or Notary Public who should sign/notarize the document.
5. Ask the JP/Notary Public to stamp, sign and date the work itself. (This copy of the work will be exhibited to the Declaration.)
6. Bring the signed Declaration Form along with the endorsed copy of the work to the IPC. Keep the other signed Declaration Form for claimant's own records.
7. Complete and sign the IPC Copyright Claim Form
8. Complete and sign the IPC Deposit Form
9. Pay the required registration fee to the IPC
10. Keep the stamped IPC receipt for claimant's own records.

(b) Does the request need to be submitted in a specific form?

Yes as outlined in the IPC Copyright Claim Form

Can the request be submitted by the post? Yes. Can the request be submitted electronically?

Yes.

(c) Is there a deposit requirement, that is, must a copy of the work be submitted with the registration request? Yes, along with the signed Deposit Form. If so, can it be submitted in digital form? Yes.

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

Yes. The fees vary with the type of works see attached.

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

The date of submission of the requisite documents is recorded as the date of registration and the Certificate of Registration is issued one month from that date.

Notice of the Copyright ownership claim (as disclosed in the Copyright Claim Form and Declaration) is published in the Jamaica Gazette after registration.

The copy of the work along with the signed Declaration and Deposit Form are submitted to the National Library of Jamaica along with the payment of a Deposit Fee made directly by the IPC.

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

**No**. The Declaration may be witnessed by a Notary Public in lieu of a Justice of the Peace.

15. Are the files stored in digital form?

**No**. A customized database created locally was installed for this purpose, but IPC encountered problems with it and no longer uses it.

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

**N/A**

17. Does the system have a search facility?

**N/A**

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

**N/A**

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

Unless the Copyright claimant requests that the documents be sealed, access may be granted to a copy of the work deposited in the NLJ but not the actual specimen. The primary purpose of the deposit of the work is to preserve a specimen of the work for the purposes of evidence to substantiate the claim to copyright should it be contested. The Claimant, by signing the Deposit Form grants to the Depository (the NLJ) permission to make a copy of the work for preservation and documentation purposes. The actual specimen of the work which is submitted to the Depository is not to be made accessible to members of the public.

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

Notice of the Claim outlining the name of claimant, description of the work, date and country of creation and date of registration is published in the Jamaica Gazette. Notices were formerly published in the Jamaica Gleaner.

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

Not specifically for 'orphan works'. The Copyright Act however provides that, use of a work for which the author cannot be identified or located after reasonable enquiry and on the basis of a reasonable assumption that copyright has expired, will not be treated as infringement.

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

Please see above. Published works may also indicate that if efforts to contact the copyright rights holder fail, queries may be sent to the publisher.

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

No.

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

No

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

N/A

26. Please provide statistics on following registrations/recordations:

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

**See attached**

(b) Number per nationality (last five years)

**Not sorted by nationality**

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

**Not available**

(d) Number of recordation/registrations whose subject matter has entered the public domain. Global figure/Figure per statistical period (last five years)

**None**

## **SECTION B: LEGAL DEPOSIT**

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

**Yes**

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

**Legal Deposit Act, 2002**

**Legal Deposit Regulation, 2004**

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

**Mandatory**

**A fine in a court of law not exceeding Ja\$50,000.00**

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

**Preservation of cultural heritage**

**Building of a comprehensive national collection**

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

**No; except that, a deposit may be used as supporting evidence to verify ownership**

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

**Section 6 of the Regulations states the following:**

The national publisher shall grant permission to the legal depository to  
(a) copy (including download), reformat or refresh for preservation and documentation

purposes, any document he deposits; and

(b) permit members of the public access to any document he deposits pursuant to the provisions of sections 61 to 65 of the Copyright Act and the Copyright (Librarians and Archivists) (Copying of Copyright Material) Regulation, 1993

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

Print material such as books and serials; audiovisual items such as CDs, DVDs

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

(a) Upon production/printing (b) No

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

No

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

No specific regulation ( It is not however very clear if the present legislation includes electronic publications as such is not specified).

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

One (1) copy printed document and two (2) copies audiovisual item

In a case where copies of documents to be deposited are not of uniform quality, one of the copies should be equal in quality to the quality of the highest priced edition and must include all materials which form part of that particular document

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

The publisher/producer

39. What are the time requirements for legal deposit?

Within one month of publication



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

Compensation applicable; actual production cost of the copy deposited

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

The National Library of Jamaica

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

Yes. The National Library of Jamaica does not allow clients to take materials from the library. They are provided access to materials when they visit the library and make a request

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

Catalogue records available on site and online.

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

No

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

**Legal Deposits 2005 – 2010\* (National Library of Jamaica)**

	2005-2006	2006-2007	2007-2008	2008-2009	2009-2010
Books	261	318	355	287	292
Serials	-	3	80	74	168
CDs	34	48	54	47	57
DVDs	2	2	10	24	10
VHS	3	-	-	-	-
Phonograph Records	6	17	-	25	2
<b>TOTAL</b>	<b>306</b>	<b>388</b>	<b>499</b>	<b>457</b>	<b>529</b>

\*Note: Operational Year April to March of the following year