

Japan's Response to WIPO Questionnaire for Survey on Copyright Registration and Deposit Systems.

1. For all copyrighted works 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 provisions of Article 34 of the Civil Code. In 1987, the ACA notified that the Commissioner designated the SOFTIC as a registration agency.

2. For all copyrighted works but computer program works:

Location: 3-2-2 Kasumigaseki, Chiyoda-ku, Tokyo, Japan, #100-8959

The open hours: 9:30-12:00, 13:00-18:15 (Monday-Friday)

For computer program works:

Location: Toto-building 4F 5-1-4 Toranomon, Minato-ku, Tokyo, Japan, #105-0001

The open hours: 9:00-12:00, 13:00-17:00 (Monday-Friday)

3. For all copyrighted works but computer program works:

http://www.bunka.go.jp/chosakuken/touroku_seido/index.html

For computer program works:

<http://www.softic.or.jp/>

4. No.

5. -Copyright Law

-Law on Exceptional Provisions for the Registration of Program

-Registration and License Tax Law

-Order for Enforcement of the Copyright Law

-Order for Enforcement of the Law on Exceptional Provisions for the Registration of Program

6. All kinds of copyrighted works can be registered. Concerning the computer program works, an applicant needs to submit fixed copies of the works.

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

8. Yes, but only for transfer.

9. No.

10. For copyright:

-Unless there is contrary evidence, the registered date will be taken as the date of creation of the work (only for the SOFTIC).

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

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

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

For related rights:

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

11. Copyright registration is not mandatory in Japan.

(a) Voluntary registration is available in recognition of creation of only in case of computer program works.

(b) Transfer of rights is voluntary.

(c) Voluntary registration is not available in initiation of judicial proceedings.

(d) Voluntary registration is available in case of changes in registered item.

12. Yes. In Japan, local procedure is not necessary.

13.(a) Registration should be requested by right holder or debtor, as a general

rule.

- (b) A person who wishes to request for registration needs to submit in a specific form which is available on the Internet. The request can be submitted by the post, and cannot be done electronically.
- (c) Yes. Regarding registration of computer program works, an applicant needs to submit fixed copies of the works. An applicant cannot submit them in a digital form.
- (d) Yes. Registration license fee is as follows:

Registering real name: 9,000 yen

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

Registering transfer etc. of copyright: 18,000 yen

Registering transfer etc. of related right: 9000 yen

Registering establishment of publishing right: 30,000 yen

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

- (e) From application for the registration to completion, the ACA takes about 1 month and theSOFTIC takes about 3 weeks.

14. Yes. Foreigners including those who do not have legal residence of Japan, are allowed. There is no different registration/recordation process for domestic as opposed to foreign works or objects of related rights.

15. The SOFTIC stores the registered information (other than fixed copy of work) in a digital form. The ACA will stores the registered information in a digital form from 2011.

16. For copyright:

- Registering date of creation (only for the SOFTIC)
- Registering date of first publication
- Registering real name
- Registering assignment etc. of copyright
- Registering the establishment of publishing right etc.

For related rights:

- Registering transfer etc. of related rights

It is possible to correct the information about registrations, except the situation that the cause of registration is mistaken. But it is impossible to update the information about registrations. For example, registration about transfer of right can not be updated when such right is further transferred to another person. In that case, such transfer of right should be registered as a new registration.

17. Both the ACA and the SOFTIC provide the system with a search facility.

18. Yes. The facility is available online through the SOFTIC's computers. The SOFTIC's website places the data of registration within the last six months, which is searchable by using a search facility on the website.

Cf.) Article 78 (4) of the Copyright Law

Any person may demand of the Commissioner of the ACA the delivery of a certified copy or a certified abstract of entries in the copyright register or a copy of its annexed documents, or the opportunity to inspect the register or its annexed documents, or the delivery of copies of entries in the part of the copyright register, prepared by means of magnetic discs.

19. No. Only courts can access to the fixed copies.

20. The general public cannot access to the application forms submitted and attached documents thereto, but can browse the fixed copy of original record of registration etc.

21. Japan has the system to exploit works, performances, phonograms, broadcasts or wire diffusions under compulsory license.

Articles 67 and 103 of the Copyright Law provide *exploitation of works in the case where the owner of copyright or neighboring rights thereof is unknown*.

22. Some institutions make databases on copyright information.

23. The ACA, which is one of the registering bodies, has the authority of a compulsory license under certain conditions.

24. No.

25. We do not identify the existence.

26. (a) 8995 cases

(b) N.A.

(c) 1647 cases

(d) N.A.

27. Yes. Japan has a legal deposit system.

28. Articles 24 through 25bis of the National Diet Library Law (“the NDL Law”). Article 25, paragraph 3 stipulates that the recording of Internet resources offered by the national government, local governments, independent administrative agencies, etc., is categorized as separate from the legal deposit system.

29. Legal deposit is mandatory in Japan. There is a measure which stipulates that if a publisher (excluding national government, local governments, independent administrative agencies, etc.) fails, without a legitimate reason, to deposit its publication, it will be punished with a fine of up to five times the retail price of the publication (Article 25bis, paragraph 1 of the NDL Law).

30. For official use of the National Diet Library (NDL) (assisting national policy deliberations on government activities) or for its use in exchange for the publications of foreign governments and in other international exchanges, as well as for the accumulation and use of cultural heritage.

31. No.

32. Yes. Article 31 of Copyright Law provides that in the case where the reproduction is necessary for the purpose of preserving library materials, it is permissible to reproduce a work included in library materials such as books, documents and other

materials within the scope of the non-profit-making activities of libraries and similar institutions. It is also permissible for the NDL to record in some form of memory a work included in its library materials, to the extent deemed necessary, in the case where an electro-magnetic record is made for the public use as a substitute for an original included in its library materials, for the purpose of avoiding the destruction, ~~the~~ damage or soiling of the original through public use.

33. (1) Books, (2) Pamphlets, (3) Serials, (4) Music scores, (5) Maps, (6) Motion picture films, (7) Documents or charts besides those mentioned in the foregoing items, reproduced by printing and other processes, (8) Phonographic records and (9) Texts, images, sounds, or programs recorded by electronic, magnetic, or other methods which cannot be directly perceived by human senses.

34. Legal deposit applies after distribution. The NDL Law stipulates the obligation of depositing publications issued by or for any agency of the government (Article 24, paragraph 1), and issued by any person other than national government, local governments and independent administrative agencies (Article 25, paragraph 1. In the case of materials printed in Japan but distributed abroad, it is interpreted as having no obligation of deposit. The following is the reason: While the NDL Law does not define that publications issued in Japan are obliged to be deposited, and the criteria for whether or not a publication is considered to be issued in Japan, it is interpreted that the scope of application of the NDL Law is within Japanese territory, and limited to the publication in Japan, that is, publications distributed in Japan, as the NDL Law has the property of placing an obligation on private citizens under public law by the national government.

35. Yes. The NDL Law exempts confidential matters, as well as blank forms, specimen pages and other simple publications. Motion picture films are exempted from legal deposit for the time being.

36. Yes. There are provisions in regard to materials published in electronic format. The provisions distinguish between on-line and off-line material. Off-line material is subject to legal deposit as referred to (9) of A33). On-line material is not subject to legal deposit but there is a provision which stipulates that part of the on-line materials such as the Internet resources of the national government, local governments and independent administrative agencies, etc. can be collected by recording in the form of memory for the

use of the NDL (Article 25, paragraph 3 of the NDL Law).

37. Up to 30 copies from the national governments, up to 5 copies from independent administrative agencies, etc., up to 5 copies from the prefectural and municipal governments, 3 copies or less from the governments of towns and villages, up to 4 copies from the corresponding bodies of the prefectural and municipal governments, up to 2 copies from the corresponding bodies of governments of towns and villages, and 1 copy from the others (private publishers) are required.

There is no provision regarding the number of copies to be deposited for limited or *de luxe* editions, etc., but in the case of agencies required to deposit multiple copies, they are allowed to deposit fewer copies than prescribed if they have special reasons.

38. Basically publishers take responsibility. In the case of publications issued for the national government, local governments and independent administrative agencies, etc., each entity is responsible.

39. The national government, local governments and independent administrative agencies, etc. are required to deposit “immediately”, and the others “within thirty days of issue.”

40. Any publisher other than the national government, local governments and independent administrative agencies, etc. must be given “compensation equivalent to the expenses usually required for the issue and deposit of the publication.” Usually the half of the retail price is provided.

41. The NDL is responsible.

42. Yes. The materials are available under the NDL Rules Concerning the Use of Library Materials. Please also see the website of the NDL.

43. Yes. They are accessible on-line.

44. There is no relation between them.

45.

	(a) print material	(b) musical works	(c) audiovisual works
FY2004	537,840	16,031	9,984
FY2005	548,383	15,492	9,480
FY2006	574,470	16,673	9,093
FY2007	562,163	15,520	9,926
FY2008	564,311	16,173	11,068

(End)