



Ministry of Legal Affairs

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DATE : May 11, 2010

TO FAX NO : 011 4122 338 9070

COMPANY : International Bureau
c/o Copyright Law Division
World Intellectual Property Organization
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SENDER : Tene Reece
Deputy Controller
Intellectual Property Office

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International Bureau
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World Intellectual Property Organization
34, chemin des Colombettes
1211 Geneva 20
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by fax & mail

Dear Sir,

Re: WIPO Questionnaire for Survey on Copyright Registration and Deposit Systems

I refer to your letter dated February 1, 2010 in relation to the matter at caption.

Enclosed please find the duly completed Questionnaire concerning voluntary registration and deposit systems in the area of copyright and related rights, submitted on behalf of the Government of the Republic of Trinidad and Tobago.

A copy of Trinidad and Tobago's Copyright Act, 1997 and Publications (Legal Deposit) Act Chapter 82:74 are enclosed for your ease of reference.

Yours faithfully,

Tene Reece
Deputy Controller

Encl.

QUESTIONNAIRE

RESPONSES SUBMITTED BY THE INTELLECTUAL PROPERTY OFFICE, MINISTRY OF LEGAL AFFAIRS ON BEHALF OF THE GOVERNMENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO

A. COPYRIGHT REGISTRATION AND RECORDATION

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

Under the Copyright Act, 1997 (as amended by Acts Nos. 18 of 2000 and 5 of 2008) of the laws of Trinidad and Tobago, there is no registration of copyright in order for copyright to subsist in an original literary or artistic work. In this regard, copyright protection is automatic upon the creation of an original literary or artistic work. This is in accordance with Trinidad and Tobago's international obligations under the Berne Convention for the Protection of Literary and Artistic Works to which Trinidad and Tobago became a party on August 16, 1988 . The administration of laws relative to copyright and related rights falls under the purview of the Intellectual Property Office of the Ministry of Legal Affairs and there is no registration of works at the Intellectual Property Office of the Ministry of Legal Affairs in order for copyright to subsist.

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.

Not Applicable

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

Not Applicable

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

Not Applicable

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

Not Applicable

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

Not Applicable

2.

7. Can the subject matter of related rights (e.g., performances, broadcasts, sound recordings) also be registered/recorded? If yes, is there a different registration/recordation process than for works protected by copyright?
Yes, related rights as it pertains to musical works may be recorded in Trinidad and Tobago with any of the collecting societies. Producers, performers, to name a few, may become members of the collecting societies and assign their rights to the collecting societies in order for the collecting societies to issue licences and collect royalties on their behalf. There are several collecting societies in Trinidad and Tobago as follows: -

- (i) The Copyright Music Organization of Trinidad and Tobago (COTT)**
- (ii) The Trinidad and Tobago Copyright Collection Organization (TTCCO)**
- (iii) Advanced Writers Entertainers Singers on Music Endeavours (AWESOME)**
- (iv) Recording Industry Association of Trinidad and Tobago (RIATT)**

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

There is no mechanism by which a transfer or licence of copyright/related rights may be recorded or registration of a transfer or licence of copyright/related rights. However, an assignment of copyright (i.e. a complete transfer of ownership) will not be effective unless made in writing and signed by or on behalf of the assignor (Section 28(2) of the Copyright Act, 1997). Licences or permissions to use copyright do not need to be in writing under the Copyright Act, 1997.

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

It is not possible to record a security interest in copyright or a related right.

10. What is the legal effect of registration?

Not Applicable

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

- (a) Recognition of creation? Not applicable**
- (b) Transfer of rights? Assignment of copyright must be in writing (section 28(2) of the Copyright Act, 1997)**
- (c) Initiation of judicial proceedings? Not applicable**
- (d) Other changes in title/ownership (such as leasing)? Not applicable**

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

Not applicable

3.

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?

The issue of whether an overseas registration of copyright by a public authority will be given effect by the courts in Trinidad and Tobago, has not arisen before the courts in Trinidad and Tobago.

13. What are the requirements for registration? **Not Applicable**

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

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

Not Applicable

15. Are the files stored in digital form?

Not Applicable

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

Not Applicable

17. Does the system have a search facility?

Not Applicable

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

Not Applicable

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

Not Applicable

4.

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

Not Applicable

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 (c.g., a compulsory license or a limitation on liability)? Please briefly describe the main elements of that legislation.

No

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

Not applicable

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

Not applicable

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?

Not applicable

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?

Not applicable

26. Please provide statistics on following registrations/recordations: **Not applicable**

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

5.

B. LEGAL DEPOSIT

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

There is legislation outlining the legal framework for legal deposit. However, since the Order and Regulations which were required to give effect to the legislation were never made, in practice, there is no mechanism for legal deposit in Trinidad and Tobago.

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

The Publications (Legal Deposit) Act Chap. 82:74 of the Laws of Trinidad and Tobago. The Publications (Legal Deposit) Act Chap. 82:74 may be viewed online at: - <http://rgd.legalaffairs.gov.tt/Laws2/main.html> .

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

It is mandatory. The penalty on summary conviction is Five Hundred Trinidad and Tobago Dollars (\$500.00) and forfeiture to each of the legal depositories entitled to such deposit, one copy of the work, production or sound recording which the publisher was required to deposit [Section 8 of the Publications (Legal Deposit) Act]. However, please bear in mind that the Order and Regulations that were required to give effect to the Act and in particular to designate the legal depositories were never passed so the provisions of the Publications (Legal Deposit) Act can not be effected.

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

There are no specific functions stated in the Publications (Legal Deposit) Act.

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

No

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.

No

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

According to Section 5 of the Publications (Legal Deposit) Act, every publisher shall deposit with each legal depository one copy of every literary or musical work, audio-visual production and of every sound recording within one month of its publication.

6.

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?

Within one month of publication, every publisher shall deposit with each legal depository one copy of every literary or musical work, audio-visual production and of every sound recording (Section 5(1) of the Publications (Legal Deposit) Act). It applies to all material printed in Trinidad and Tobago.

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

Exemptions are not listed in the Publications (Legal Deposit) Act.

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.

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

One copy. There are no special categories for limited or deluxe editions.

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

Every publisher shall deposit with each legal depository one copy of the prescribed works.

39. What are the time requirements for legal deposit?

Within one month of the publication.

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

Section 10 (1) of the Publications (Legal Deposit) Act provides that "for the purpose of ascertaining, under the Income Tax Act, or the Corporation Tax Act, the chargeable income or chargeable profits of a publisher who has made a deposit pursuant to Section 5 of the Act, there shall be allowed a sum equivalent to the value of each copy of the work, production or sound recording so deposited, in respect of the year in which the deposit was made". Section 10 (2) provides that the value of a work, production or sound recording means the price which could reasonably have been obtained therefore if the work or sound recording had been sold on the open market on the date on which the work or sound recording was deposited.

7.

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

Any library designated as a legal depository by the Minister responsible for library services.

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

The Publications (Legal Deposit) Act does not state whether the general public will have access to legally deposited materials.

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

The major libraries in Trinidad and Tobago have publicly available search facilities and internet search facilities.

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?

Not applicable

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.

Not applicable