

# WIPO Survey on Voluntary Copyright Registration Systems: main findings

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# Contents

## I. Introduction

- background, objectives and methodology of the survey
- general overview of systems in place around the globe
- institutional questions

## II. Copyright registration: main findings

## III. Recordation of transfers of rights: main findings

## IV. Legal deposit: main findings

## V. Conclusions

# I. Introduction

# Background of the survey

- due to formality-free protection of copyright, publicly accessible resources with copyright data are not available by default
  - evidentiary issues (e.g. proof of authorship, ownership, term of protection)
  - licensing difficulties (e.g. problem of ‘orphan works’)
- voluntary copyright registration systems
  - may alleviate evidentiary issues by making copyright data publicly available
  - may facilitate licensing and transactions in the copyright marketplace
  - provide records of cultural assets that are part of national cultural heritage
- access to reliable and up-to-date copyright data is particularly key to ease copyright transactions in the digital environment

# Objectives

- to prepare a detailed survey of existing systems of voluntary copyright registration, recordation and legal deposit;
- to highlight the policy rationale behind having such system(s) and list the main benefits and challenges thereof; and
- to identify possible areas for improving current systems as well as potential developments/cooperation at the international level

# Methodology

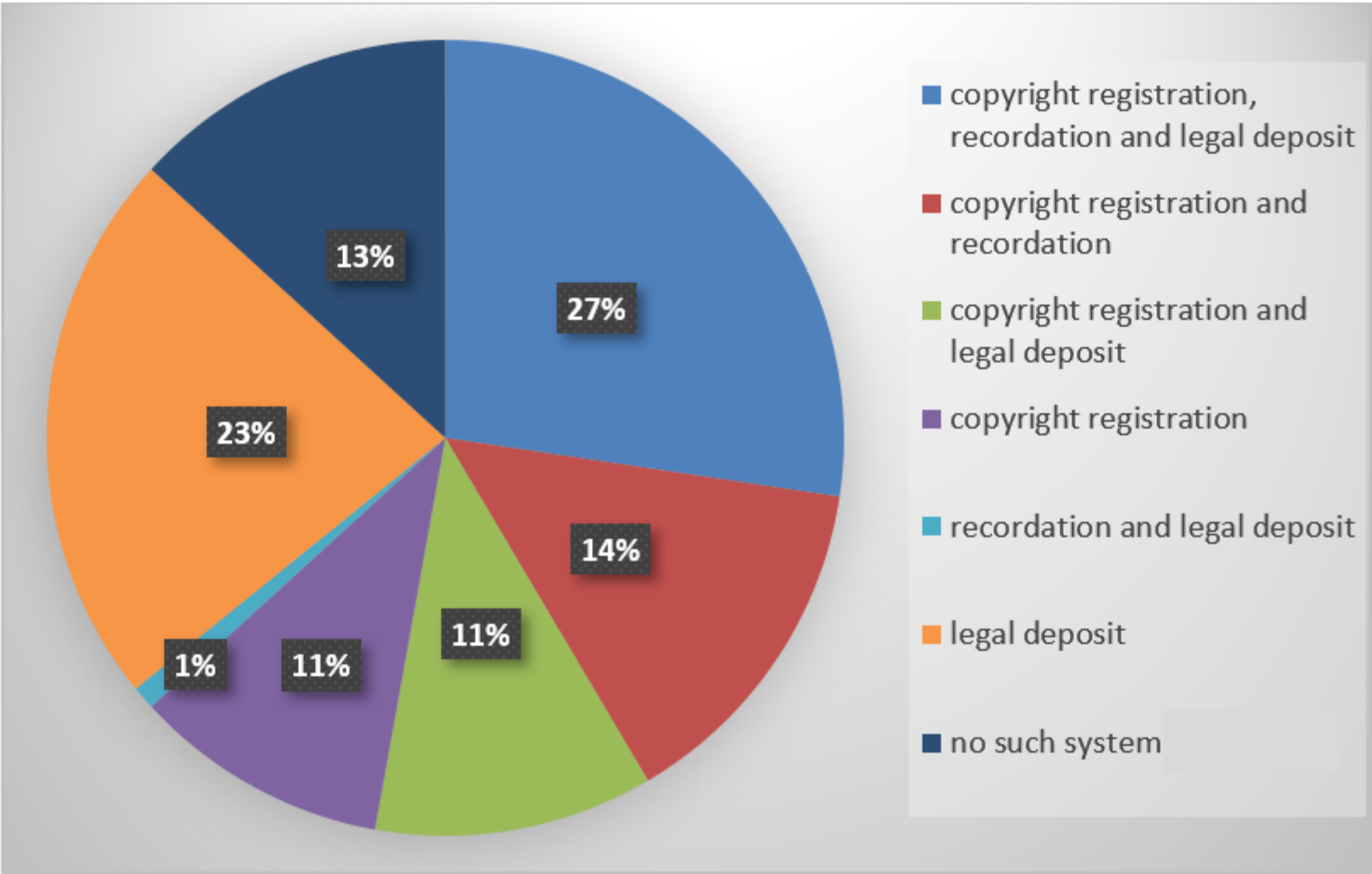
- drafting of survey questionnaire
  - broader scope than previous surveys in 2005 and 2010
  - not only voluntary copyright registration, also recordation and legal deposit
  - also questions on institutional issues and cases where there are no systems of copyright registration, recordation and/or legal deposit in place
- survey questionnaire was sent to all WIPO member states
  - 109 of the 193 WIPO member states responded; 3 replies were incomplete
  - situation in the remaining 84 WIPO member states is not known
- comprehensive data analysis on the basis of the replies received
  - validation of the analysis conducted by WIPO member states

**Table 1b: Voluntary formalities and legal deposit at national level (adjusted)**

	Number of countries	% (*)
<b>Copyright registration</b>	67	63%
<b>Recordation of transfers of rights</b>	45	42%
<b>Legal deposit</b>	66	62%
<b>No such system</b>	14	13%

*\* Based on the responses from 106 out of 193 WIPO Member States (three incomplete responses disregarded)*

**Figure 1: Combinations of voluntary formalities and legal deposit at national level\***



*\* Based on the responses from 106 out of 193 WIPO Member States (three incomplete responses disregarded)*



# Institutional questions

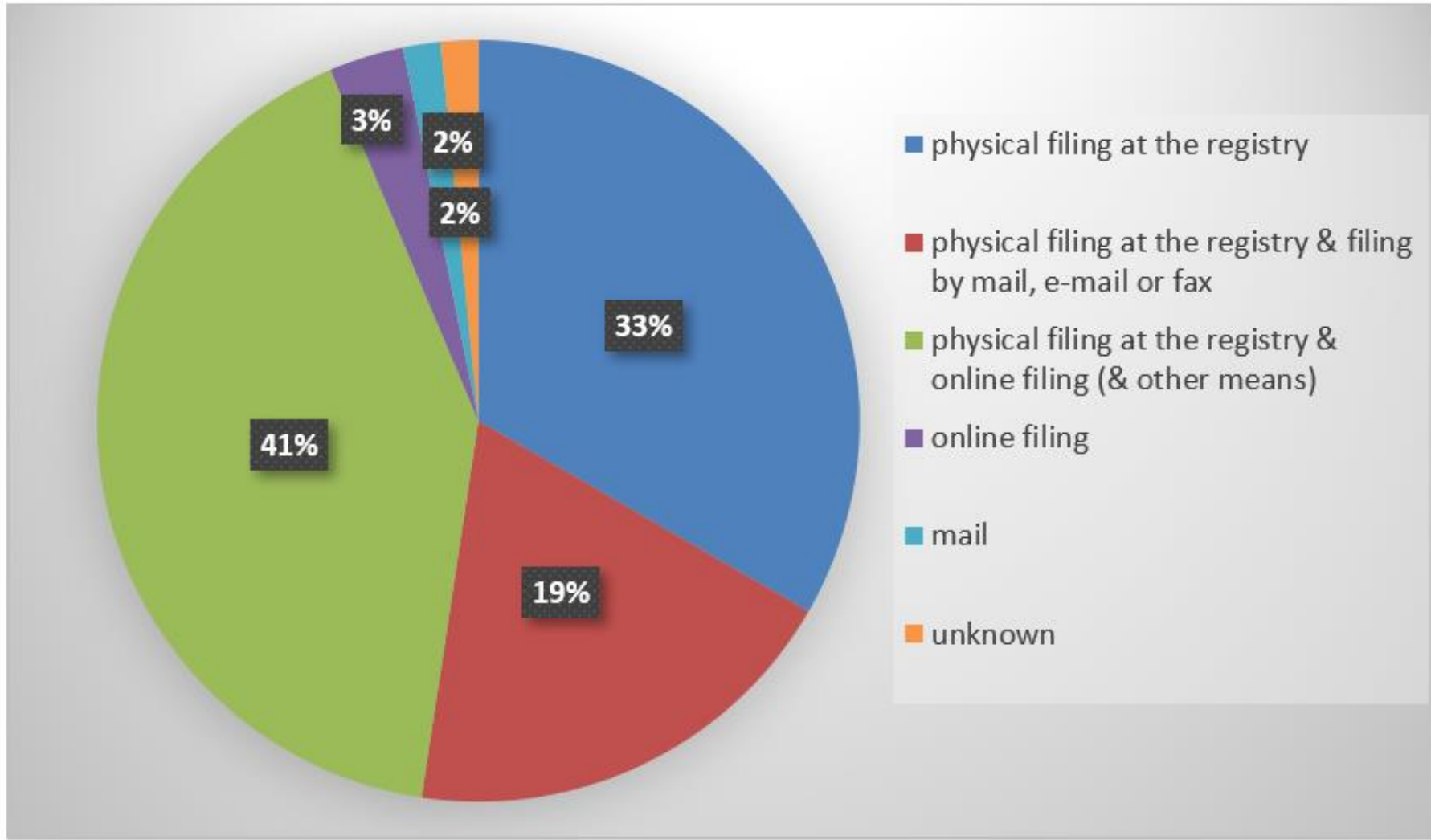
- administering authority
  - copyright registration: typically administered by a national copyright or IP office or department within a ministry (sometimes: by the national library)
  - recordation of transfers of rights: administered by the registration office
  - legal deposit: typically administered by the national library (and audio-visual institute) or, if there is a link with registration, by the registration office
- almost all these institutions are part of public administration
- many of these institutions have a (very) long history and standing
  - some registration offices are adapting their services to the online reality
  - legal deposit has been expanded to include digital objects & web harvesting

# II. Copyright registration

# Registrable subject matter

- 86%: all works eligible for © protection, divided in classes of works
- 14%: only specific works prescribed by law (e.g. software, databases)
- 89%: also accept registration of subject matter of related rights
- some specific findings:
  - conditions for registrability vary from fixation in a material form (87 %) to country of origin – often relating to eligibility for protection (24%)
  - various countries accept registration of unpublished manuscripts for safekeeping and evidentiary purposes (with strict access restrictions)
  - 75%: require/accept registration of different/new versions of the same work

**Figure 2: Registration filing methods used in different countries\***



*\* Based on 63 responses (one country did not answer the question)*

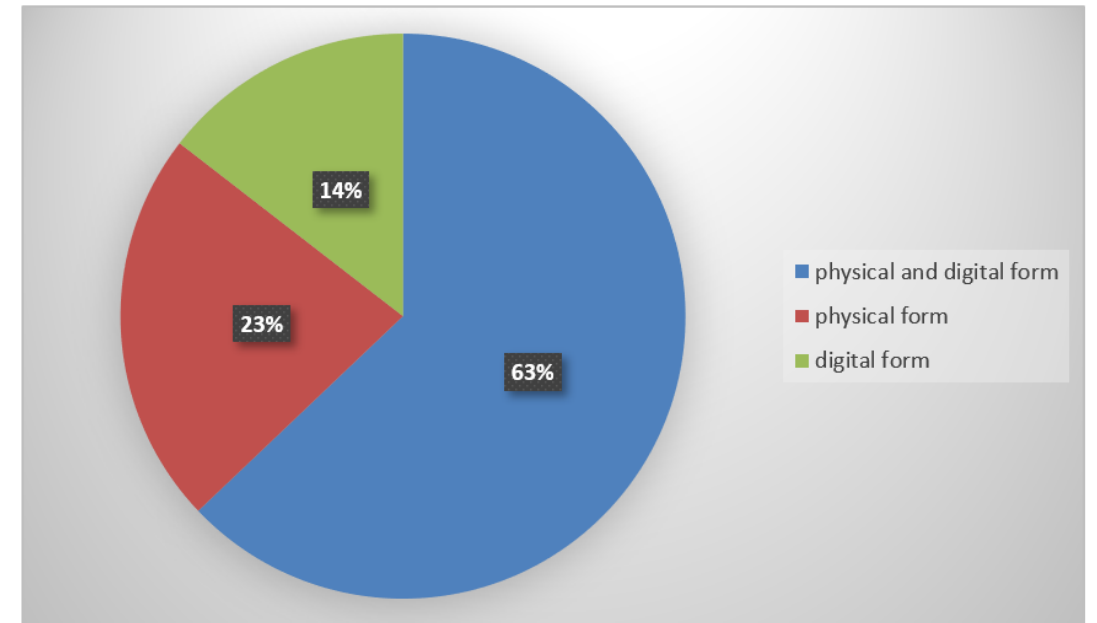
# Registration process

- 95%: require a (physical or digital) copy to be submitted during filing
- 68%: examination process for reviewing filings
  - only a formality check (forms filled correctly, fees paid, etc.)
  - formality check + basic substantive check (statutory categories of works)
  - formality check + full substantive review (including originality)
- in most countries, a refusal to register can be appealed (79%) and third parties can oppose/challenge the registration of works (83%)
- 89% apply fees (per filing or per work registered); 11%: free of charge
  - 40%: allow multiple works (specific types) to be filed simultaneously

# Accessibility of the registry

- public access to the registry:
  - 31%: full public access
  - 40%: partial public access (e.g. only basic © data; restrictions to inspect deposit copies and/or personal data)
  - 29%: no public access (or not yet)
- searchability of the registry:
  - 68%: searchable (sometimes limited)
    - free of charge or against standard fee
    - by name, title or ID-number or (in some countries) also by other metadata
  - 31%: not searchable

Figure 3: Registries in physical and/or digital form\*



\* Based on 62 responses (two countries did not answer the question)

# Metadata, identifiers, interoperability

- 47%: unique identifiers (application/registration number, but also international standard numbers, such as ISBN, ISSN, ISMN, etc.)
  - some registries that also operate as CMOs use specific CMO-related identifiers
- metadata: typically all data describing the works registered, authors, rightholders and procedural data (publication / registration date, etc.)
  - 16%: participated in international cooperation to facilitate registration or standardize identifier data (e.g. through CISAC, IFPI and WIPO)
  - 23%: efforts to standardize metadata to ensure interoperability
    - with international databases
    - with metadata used for collective rights management
    - with civil registries to ensure that personal data of authors/rightholders is adequate

**Table 4: Legal effects of copyright registration**

	Number of countries	% (*)
<b>Rebuttable presumption of the facts registered</b>	37	59%
<b>Prima facie evidence of the facts registered</b>	41	65%
<b>Right to claim statutory damages (registrant)</b>	16	25%
<b>Right to start NTD procedures (registrant)</b>	10	16%
<b>Other legal effects</b>	5	8%

*\* Based on 63 responses (one country did not answer the question)*



# Other benefits and costs of registration

- benefits
  - it provides legal certainty for authors and rightholders
  - it provides publicity and has great probative value in legal matters
  - it facilitates copyright enforcement and rights clearance
  - it serves the general interest by keeping a national public record of works
- costs
  - risk of bad faith registration of works that are not their own
  - establishing and maintaining a copyright registry can be a costly undertaking
  - registration fees can be too expensive for creators in developing countries
  - since registration is voluntary, it establishes an incomplete record of works

# III. Recordation of transfers of rights

# Recordation: main findings

- in many countries: link with registration (but separate procedures)
- recordable information: from contracts in full (60%) to statements on the assignment of rights (parties, object and purpose of contract)
- fewer countries allow for online filing in the recordation system (33%) compared to online filing for registration purposes (44%)
- accessibility and searchability of the recordation system comparable to registration; same for its availability in physical/digital form
- legal effects of recordation are nearly identical to registration
  - in general, recordation is an important means to certify ownership of rights
  - in some countries, recordation is not merely declaratory but required in order for the contract to be effective (and enforceable) against third parties

# IV. Legal deposit

# Legal deposit: main findings - I

- in most countries: legal deposit is compulsory (not for establishing ©, but to serve the public mission to preserve cultural heritage)
  - failure to comply: a fine or seizure of copies (or refusal to register the work)
- 80%: legal deposit system operates completely independent
- 18%: direct relationship with registration/recording system
  - e.g. legal deposit copies must be submitted during registration
  - e.g. separate procedures, but copies submitted during registration will also (under conditions) satisfy legal deposit requirement

# Legal deposit: main findings - II

- 30%: subject all works/subject matter protected to legal deposit
- 70%: only specific types of objects are subject to legal deposit
- some specific findings:
  - 78%: separate deposit for different and/or new versions of the same object
  - 34%: accepts only physical deposits; 66%: also accepts digital deposits
  - number of copies to be deposited varies significantly: usually between 1 and 5 copies, but there are also countries that require up to 20 deposit copies
  - 42%: specific rules for the legal deposit of digital objects (e.g. web archiving)

**Table 7a: Main purposes of legal deposit**

	Number of countries	% (*)
<b>Cross-referencing veracity of copies with the original objects</b>	13	22%
<b>Archiving</b>	46	79%
<b>Providing access to the public</b>	39	67%
<b>Preservation of cultural heritage</b>	49	84%
<b>Other</b>	5	9%

*\* Based on 58 responses (two countries did not answer the question)*

# V. Conclusions



# Some key take-aways from the survey

- copyright registration (and recordation) exists in many countries
  - values: providing legal certainty; ensuring that copyright data become publicly available (relevant for evidentiary and rights clearance purposes)
  - cost-benefit analysis: establishing and maintaining a registry can be costly
- success depends on readiness of authors/rightsholders to register
  - indicators: ease of use (one stop shop); availability of online filing methods; are perceived benefits of registration higher than perceived costs?
  - statutory incentives: what can the law do to encourage registration?
- considerations to take copyright registries into the future
  - adaption of registration to the digital environment (gradual, but slow)
  - accessibility & interoperability of national registries: international cooperation

Thank you!