Copyright Registration and Documentation Systems

Ms. Brigitte Vézina

Legal Officer

Traditional Knowledge Division

Muscat, Oman
June 26
2011

The International Legal Framework

Prohibition of formalities for copyright protection is the result of a historical process

- before the Berne Convention (1886), each country had its own rules, with which authors had to comply
- the Berne Convention introduced the principle that authors in Union countries need only comply with the formalities in the country of origin
- the principle of formality-free protection was established by the 1908 Berlin Revision of the Convention

The International Legal Framework (contd.)

■ Article 5(2) of Paris Act (1971):

"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."

■ Includes principles of "formality-free protection" (automatic) and of "independence of protection"

■ But, under the Berne Convention, it is not an obligation in the country of origin to apply the Convention to domestic works, thus formalities may be prescribed for them (e.g., USA)

The International Legal Framework (contd.)

- 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

- But Article 11 establishes that if there is a formalities requirement in place, these are fulfilled if all commercial copies of phonogram bear a notice consisting of the symbol "P" (in a circle), accompanied by the year date of the first publication

- Article 62.1 of the TRIPS Agreement, Article 20 WPPT, contain the same principle of formality-free protection

Historical Antecedents

"Legal deposit" may be defined as a statutory obligation which requires that any organization, commercial or public, and any individual producing any type of documentation in multiple copies, has to deposit one or more copies with a recognized national institution.

In many countries, legal deposit was a precedent for establishment of registration systems.

Copyright Registration and Documentation Systems

Challenges and Opportunities

- Provide simple and effective means to clearly establish authorship and/or ownership of rights, thus contribute to the protection of moral and economic rights;

- Facilitate access to and use of protected subject matter;

- Facilitate access to free-to-use creative content, including "orphan works" and public domain material;

- Repository of cultural and historical heritage and source of national statistics on the latter;

- (National registration bodies may have other competencies, such as administration of compulsory licenses and advising other public institutions on copyright issues.)

Copyright Registration and Documentation Systems

Copyright registration & documentation systems can facilitate easy, legitimate access to content, promoting :

- Interactive environment and autonomy of users
- Respect for copyright limitations & exceptions
- Network effect for copyright industries
- Reduction of piracy
- Effective solution of territorial barriers

Copyright Registration and Documentation Systems

A. *National Voluntary Registration Systems*

B. *Collective Management Organizations (CMOs)*

C. *Private Registration Systems*

D. *Identifiers and Rights Management Information (including ISO standards (e.g. ISBN))*

Copyright Registration and Documentation Systems

A- National Voluntary Registration Systems

- National registration systems are **not harmonized** in terms of subject matter, accessibility and search tools, procedures, format (analog or digital);

- There is **minimal/no interconnection** among registries and other copyright databases;

- There are many **differences and uncertainties** on:

  - legal effect of registration; and

  - judicial recognition of registrations effected in other countries

Copyright Registration and Documentation Systems

B- Documentation systems of Collective Management Organizations
(e.g. (CISAC Common Information System (CIS))

- standardized **identifiers** of works, parties
- "network of global databases, or sub-systems relying on various centralized and increasingly decentralized technologies, that will serve as the repository of authoritative information on the creative process for all participating CISAC societies." (www.cisac.org)
- In principle proprietary
- Interoperable ?

C- Private Registration Systems
(e.g. SafeCreative, CreativeCommons.net, Registered Commons, Google Book Right Registry)

- Proprietary
- Hopefully becoming interoperable (e.g. Open Standards for Copyright Registry Interop, OSCRI)

Copyright Registration and Documentation Systems

D- Identifiers and Rights Management Information

all-content-delivery business models:
- Digital Media Project (http://www.dmpf.org)
- Coral Consortium (http://www.coral-interop.org)
- Automated Content Access Protocol (http://the-acap.org)

promoting accessibility:
- Web Accessibility Initiative (http://www.w3.org/WAI/))

addressing orphan works clearance:
- ARROW, "Accessible Registries of Rights Information and Orphan Works towards Europeana (http://www.arrow-net.eu/) (European consortium of National Libraries, Publishers, and CMOs)

Copyright Registration and Documentation Systems

D- Identifiers and Rights Management Information (contd.)

- 1996 WIPO treaties (WCT, WPPT) require adequate legal remedies for protection of Rights Management Information (RMI)

- Interoperability of the copyright infrastructure is a crucial element for content accessibility

- Existing and/or new standards setting organizations may play a key role in this process

- Copyright legislation promote interoperability of standards (e.g. Recital 54 Dir. 2001/29/EC, art. 9.2 Dir.91/250/EEC)

The Development Agenda — WIPO Committee on Development and Intellectual Property (CDIP)

- Thematic Project on IP and the Public Domain

- Thematic Project on IP and Competition Policy

- Thematic Project on IP, ICTs, the Digital Divide and Access to Knowledge

Thematic Project on IP and the Public Domain

"16. Consider the *preservation* *of the public domain within WIPO's normative processes and deepen the analysis of the implications and benefits of a* *rich and accessible* *public domain."*

"20. To promote norm-setting activities related to IP that support a *robust* *public domain in WIPO's Member States, including the possibility of preparing guidelines which could assist interested Member States in* *identifying subject matters that have fallen into the public domain* *within their respective jurisdictions."*

Thematic Project on IP and the Public Domain

- *Scoping Study on Copyright and Related Rights and the Public Domain*

- *Second Survey of National Legislation on Voluntary Registration Systems for Copyright and Related Rights*

- *Survey of Private Copyright Documentation Systems and Practices*

- *Global Conference on Copyright Documentation and Infrastructure* (Geneva, October 13 – 14, 2011)
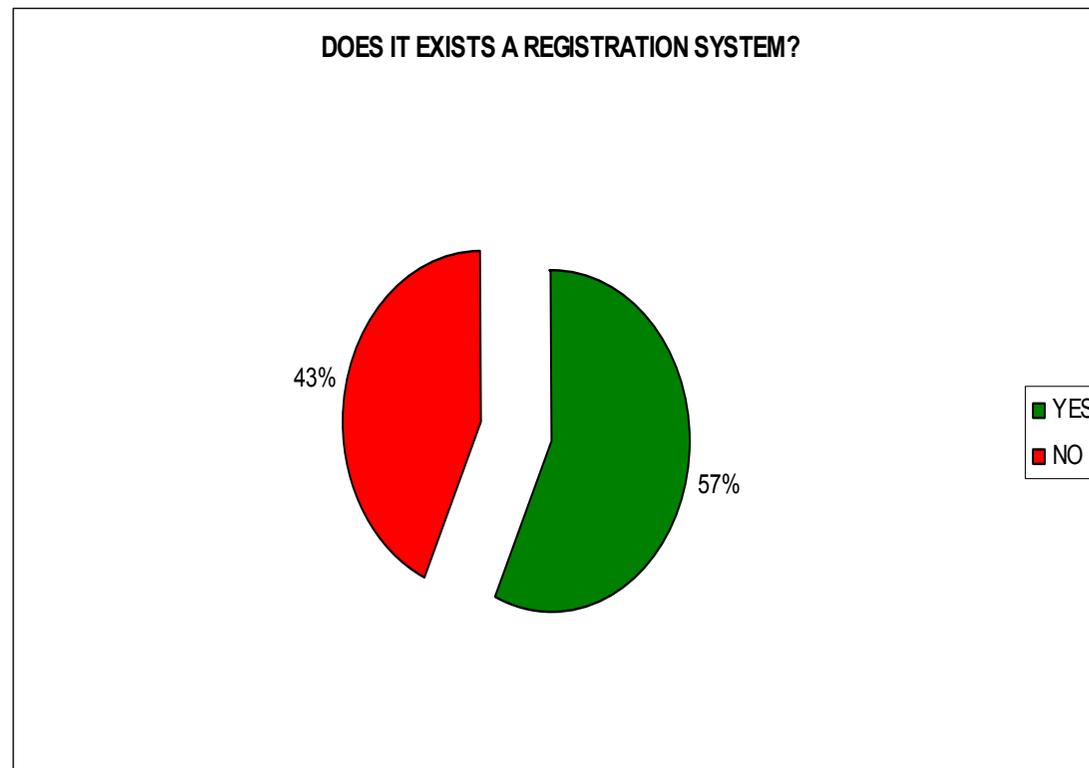
Second Survey of National Legislation on Voluntary Registration Systems for Copyright and Related Rights

- operational requirements for "digital" registration;
- orphan works;
- registered public domain subject matter;
- legal deposit;
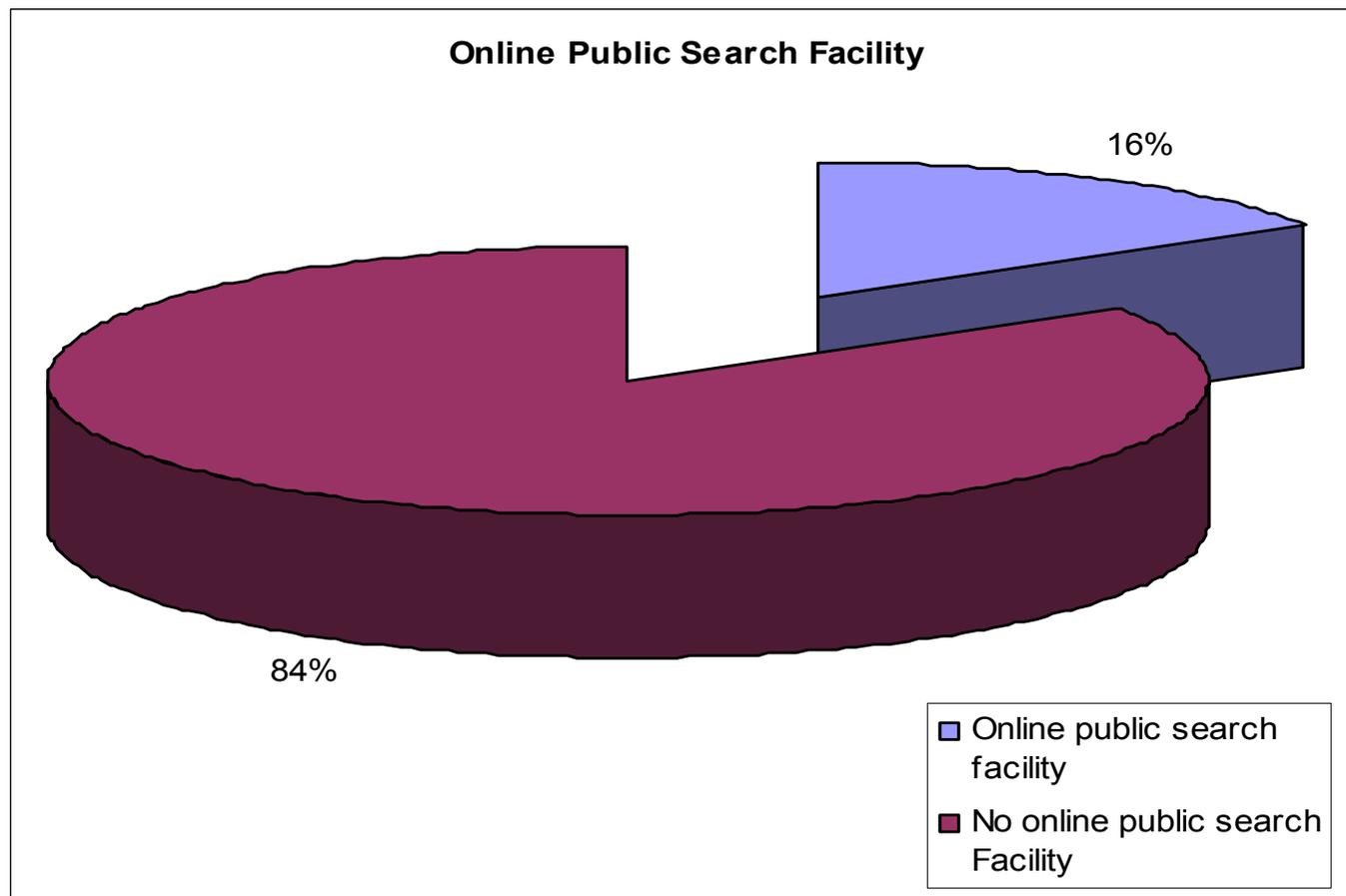- broad geographical scope: <u>all</u> Member States

80 responses available on WIPO Copyright website at:

http://www.wipo.int/copyright/en/registration/registration_and_deposit_system_03_10.html
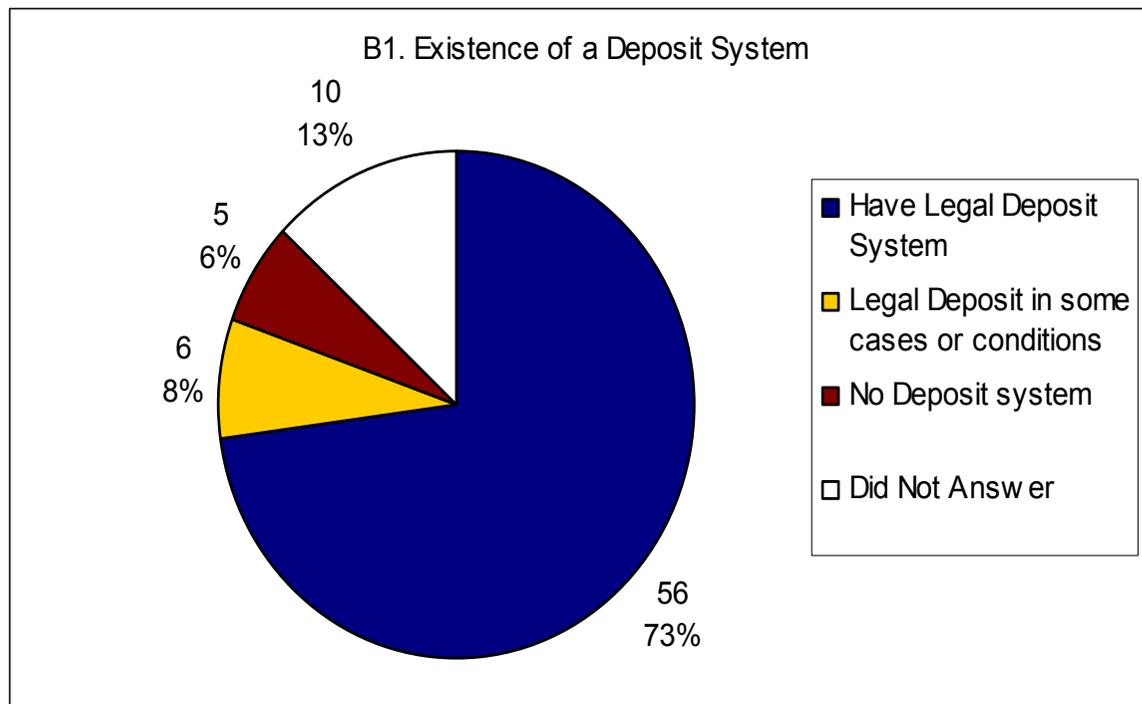
WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

Second Survey of National Legislation on Voluntary Registration Systems for Copyright and Related Rights (contd.)

DOES IT EXISTS A REGISTRATION SYSTEM?

- 43%
- 57%

Legend:
- YES
- NO

Second Survey of National Legislation on Voluntary Registration Systems for Copyright and Related Rights

Online Public Search Facility

16%

84%

- Online public search facility
- No online public search Facility

Second Survey of National Legislation on Voluntary Registration Systems for Copyright and Related Rights

B1. Existence of a Deposit System

- 10 / 13% — Did Not Answer
- 5 / 6% — No Deposit system
- 6 / 8% — Legal Deposit in some cases or conditions
- 56 / 73% — Have Legal Deposit System

Legend:
- Have Legal Deposit System
- Legal Deposit in some cases or conditions
- No Deposit system
- Did Not Answer

Survey of Private Copyright Documentation Systems and Practices

- Collective Management Organizations (e.g. works, authors databases, CIS-net, ISO)

- Private registries (e.g. Registered Commons, SafeCreative, CreativeCommons.net)

Release 2011

Digital Future Projects

■ International Music Registry (IMR)

■ Inter-Governmental Organization Licenses (IGO Licenses)

■ Review of Contractual Practices in the Audiovisual Sector

WIPO
WORLD
INTELLECTUAL PROPERTY
ORGANIZATION

http://www.internationalmusicregistry.org

The project is a collaboration of the worldwide music sector, facilitated by WIPO, aimed at facilitating licensing in the digital environment;

to meet the need to make it faster, easier and simpler to find the owners of all different rights involved in a music productions in different territories;

the solution must be neutral, global and reliable.

International Music Registry (IMR)

An international system that "ties together" all the different rights-management systems in use in different countries. An accurate, authoritative, registry of information about musical works, sound recordings and music videos is a fundamental, essential public good that supports a healthy ecosystem for digital music;

Basic principles (http://www.internationalmusicregistry.org/portal/en/basic_principles.html) reflect the vital importance of transparency, openness and non discrimination in its services and operations.

International Music Registry (IMR)

Issues:

- Participation and inclusiveness (e.g. SACEM, RIAA, EBU, PRS, EMI, etc.)
- Objectives (Right holders / Business / Consumers; Developed / Developing world)
- Governance models
- Financing models
- Access conditions
- Public Outreach

WIPOCOS and GDA

- WIPOCOS: database management software for collection and distribution of royalties of Collective Management Organization, mainly implemented in West Africa
- Partnership with Google
- Common digital platform to identify protected musical works and to simplify music licensing

- GDA ("Gestión de Derecho de Autor"): essential infrastructure built on OSS for copyright voluntary registration systems in Latin America

Thank you!