

MEASURES FOR REGISTRATION OF COMPUTER SOFTWARE COPYRIGHT

(China, Full Text)

CHAPTER I GENERAL PROVISIONS

Article 1 These Measures are formulated for the purpose of implementing the Regulations for Computer Software Protection (the Regulations).

Article 2 National copyright administrations encourage software registration, and provide priority protection to registered software, so as to promote the development of China's software industry and enhance the innovative capabilities and competitiveness of China's information industry.

Article 3 These Measures shall apply to the registration of software copyright, and the registration of exclusive licensing contracts and assignment contracts of software copyright.

Article 4 An applicant for software copyright registration shall be the software copyright owner, or a natural person, legal person, or other organization that owns the copyright through succession, assignment, or inheritance.

An applicant for registration of a software copyright contract shall be a party to the exclusive licensing contract or the assignment contract of the said software copyright.

Article 5 These Measures shall also apply where an applicant or one of the applicants is a foreign national or a stateless person.

Article 6 The National Copyright Administration shall be responsible for software copyright registration tasks nationwide.

The National Copyright Administration designates the Copyright Protection Center of China as the agency for software registration.

With the approval of the National Copyright Administration, the Copyright Protection Center of China may establish local administrations for software registration.

CHAPTER II APPLICATION FOR REGISTRATION

Article 7 A software work for which registration is applied for shall be one developed independently, or shall be one which incorporates significant improvements in function or performance resulted from modifications made to an existing software work with the permission from the original copyright owner.

Article 8 Where a software work for which registration is applied for is developed jointly, all copyright owners may agree to appoint one copyright owner as their representative in the application. Where copyright owners cannot reach an agreement, any of the said copyright owners may apply for registration, provided that no damage is thereby caused to the said other copyright owners and the names of other copyright owners are clearly indicated.

Article 9 In an application for software copyright registration, the following materials shall be submitted to the Copyright Protection Center of China:

- (1) an application form for software copyright registration, duly completed;
- (2) identifying materials of the software;
- (3) supporting documents

Article 10 Identifying materials of a software work include the identifying materials of its program and file(s).

Identifying materials of the program and file(s) shall consist of the first thirty and the last thirty consecutive pages of the source program and of file(s) of any type. Where the entire program and file(s) are fewer than 60 pages in length, the entire source program and the entire file(s) shall be submitted. Except in specific circumstances, each page of a program shall be no fewer than 50 lines in length, and each page of a file(s) shall be no less than 30 lines in length.

Article 11 In an application for software copyright registration, the following main supporting documents shall be submitted:

- (1) identification documents of the natural person, legal person, or other organization;
- (2) where there exists a written contract of copyright ownership or a project assignment document, the said contract or document;
- (3) where the software is developed on the basis of an existing software with the permission of the original software copyright owner, the licensing document from the said original copyright owner; and
- (4) in the case of any successor, assignee, or heir of the copyright, the evidence of such succession, assignment, or inheritance.

Article 12 Where software copyright registration is applied for, identifying materials may submitted, in exceptional cases, in any one of the following manners at the choice of the applicant:

- (1) the first thirty and last thirty consecutive pages of the source program in which thick black oblique lines are used to block out the confidential portions, with such blocked-out portions, however, constituting no more than 50% of the source program so submitted;
- (2) the first ten consecutive pages of the source program, and fifty consecutive pages of any portion of the source program; or
- (3) the first thirty and last thirty consecutive pages of the object program, and twenty consecutive pages of any portion of the source program.

In respect of files that are submitted in exceptional cases, the above paragraph shall apply *mutatis mutandis*.

Article 13 In applying for software copyright registration, the applicant may request to have the source program, file(s), or sample(s) sealed. No person other than the applicant or a judicial body shall open the seal.

Article 14 The parties to an assignment contract of software copyright or to an exclusive licensing contract may apply to the Copyright Protection Center of China for registration of the said contract. In an application for such contract registration, the following materials shall be submitted:

- (1) a contract registration form, duly completed;
- (2) a copy of the contract; and

(3) identity documents of the applicant.

Article 15 An applicant may request to withdraw an application for registration at any time prior to the approval of the application.

Article 16 The registrant of a software copyright or the registrant of a contract may make changes to, or provide supplements to, registered items. In applying for such changes or supplements, the applicant shall submit the following materials:

- (1) a change or supplement application form, duly completed;
- (2) a copy of the registration certificate or the registration document;
- (3) materials relevant to the changes or supplements.

Article 17 An application for registration shall be made in a standard form prepared by the Copyright Protection Center of China, and shall carry the personal seal (or the signature) of the applicant.

The application form shall be completed in Chinese. Where certificates or supporting documents are in a foreign language, Chinese translations shall be attached.

The international standard A4 297 mm x 210 mm (length x width) paper shall be used for documents of the application for registration.

Article 18 Application documents may be delivered directly or sent by registered mail. When an applicant submits relevant application documents, the name of the said applicant and the name of the software shall be clearly indicated. Where there exists an acceptance number or a registration number, it shall be clearly indicated.

CHAPTER III EXAMINATION AND APPROVAL

Article 19 For an application of a type referred to in Article 9 or Article 14 of these Measures, the date of acceptance shall be the date of receipt of materials that are compliant with CHAPTER II of these Measures, and this date shall be notified in writing to the applicant.

Article 20 The Copyright Protection Center of China shall complete the examination of an accepted application within 60 days of the date of acceptance. An application that is in compliance with the Regulations and with these Measures shall be granted registration. A corresponding registration certificate shall be issued, and the registration shall be published.

Article 21 In any one of the following circumstances, no registration shall be granted, and the applicant shall be notified in writing accordingly:

- (1) where the form is not completed or does not conform to the standards, and no change and no supplemental provision is made within the specified time limit;
- (2) where the identifying materials submitted are not the software program or file(s) stipulated in the Regulations;
- (3) where the name of the software and the signature of the copyright owner in the application documents are not consistent, and no supporting document is submitted; or
- (4) where the ownership of the software for which registration is applied for is under dispute.

Article 22 Where the Copyright Protection Center of China requires an applicant to make changes or provide supplements to the application materials, the applicant shall duly comply within 30 days. If the applicant fails to so duly comply within the said time limit, the application shall be deemed withdrawn.

Article 23 The National Copyright Administration may revoke registration pursuant to any one of the following:

- (1) a final judicial ruling; or
- (2) a decision of administrative penalty by a copyright administration.

Article 24 The Copyright Protection Center of China may revoke a registration at the request of an applicant.

Article 25 Where a registration certificate is lost or damaged, a new certificate or a replacement may be sought.

CHAPTER IV SOFTWARE REGISTRATION BULLETIN

Article 26 Except where otherwise stipulated by these Measures, any person may consult the Software Registration Bulletin and relevant disclosable registration documents.

Article 27 The following shall be published in the Bulletin in respect of a software registration:

- (1) the registration of the software copyright;
- (2) the registered items of the software copyright contract;
- (3) the revocation of the software registration;
- (4) other items.

CHAPTER V FEES

Article 28 The following fees are payable in respect of an application for software registration or for processing of other matters, as appropriate:

- (1) the registration fee for the software copyright;
- (2) the registration fee for the software copyright contract;
- (3) the registration fee for changes or supplemental provisions;
- (4) the registration certificate fee;
- (5) the fee for seal and custody;
- (6) the fee for exceptional submission;
- (7) the consultation fee;
- (8) the fee for revocation of the registration;
- (9) other fees as required.

Specific fee standards shall be formulated and made public by the National Copyright Administration in conjunction with the price regulatory authority of the State Council.

Article 29 Where an applicant voluntarily withdraws an application, or where registration is not granted by the registration authority, no paid fees shall be refunded.

Article 30 All fees stipulated in Article 28 of these Measures may be remitted through a post office or a bank, or may be paid directly to the Copyright Protection Center of China.

CHAPTER SIX SUPPLEMENTARY PROVISIONS

Article 31 The first day of all time limits stipulated by these Measures or specified by the Copyright Protection Center of China shall not be counted. Where a time limit is calculated in years or months, the expiration date shall be the corresponding date of the final month. Where there exists no corresponding date in the said month, the expiration date shall be the final day of the said month. Where the expiration date falls on a statutory holiday, the expiration day shall be the first business day after the said holiday.

Article 32 The submission date shall be the postmark date of all documents submitted to the Copyright Protection Center of China by an applicant. Where the postmark date is not clear, the submission date shall be the date of receipt unless the applicant may prove otherwise. Where documents are mailed by the Copyright Protection Center of China, it shall be assumed that the receiver's date of receipt shall be the date fifteen days after the date of posting of the documents if the documents are sent to the capital of a province, the capital of an autonomous region, or a municipality directly under the Central Government, or shall be the date twenty-one days after the date of posting if the documents are sent to other regions.

Article 33 Where due to force majeure or other justifiable reasons, an applicant fails to meet a time limit stipulated by these Measures or specified by the Copyright Protection Center of China, an extension may be requested within 30 days after the removal of such obstacles.

Article 34 The National Copyright Administration shall be responsible for the interpretation, supplementation, and revision of these Measures.

Article 35 These Measures shall enter into force as of the date of promulgation.