



Royal Decree

(No. 1584 of October 18, 1991)

Approving the Regulations on the General Registry of Intellectual Property

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The Law on Intellectual Property, No. 22 of November 11, 1987, provides in its Article 130(5), that the procedure for the registration of intellectual property rights and also the structure and operation of the General Registry of Intellectual Property will be laid down by regulation.

The Law devotes two provisions, Articles 129 and 130, to the Registry of Intellectual Property. Both are in Part III, which relates to the protection of the rights recognized in the Law. The Registry is thus an administrative entity for the protection of rights which complements the judicial bodies provided for in the Law. The essence of the protection lies in the public character of the Registry, and also in the presumption, in the absence of proof to the contrary, that the rights registered exist and belong to their owner in the form specified in the entry concerned.

The main characteristic of the new provisions on the Registry is the voluntary character of registration and the fact that it does not itself constitute the protection afforded by the Law to intellectual property rights. That characteristic, which brings our Law into line with the relevant international conventions ratified by Spain, represents a departure from the earlier 1879 Law. Under the latter it was necessary, in order to enjoy the advantages that it granted, to have registered one's rights at the Registry of Intellectual Property, failing which, on expiration of the legally prescribed periods, the work passed into the public domain for good.

The present Regulations, divided into seven chapters, have been drawn up by virtue of the legal powers conferred by Articles 129 and 130 of the Law on Intellectual Property.

Chapter I declares the existence of the General Registry of Intellectual Property, specifies the rights, instruments and contracts that may be registered, the functions of the Registry and the various Sections into which it is divided.

Chapter II sets forth the principles governing registration: person entitled to apply, requirement of a public deed, principle of priority, principle of successive periods, presumption, in the absence of proof to the contrary, of the accuracy of Register entries and, finally, the public character of the Registry and the exceptions thereto.

Chapter III lays down the requirements for applying for the registration of the works specified in Part I of the Law. The very diversity of the nature and circumstances of those works explains why Article 16



establishes requirements common to all of them and the subsequent Articles requirements specific to each one.

Chapter IV states the requirements for the registration of the performances and productions provided for in Part II of the Law.

Chapter V lays down the registration procedure. Particular importance is given to the system of appeals from acts and decisions of the Registrar.

Chapter VI lays down the requirements as to form, and gives the particulars or submissions that have to be recorded when artistic and literary works and performances and productions involving them are registered.

Finally, Chapter VII contains summary provisions on precautionary entries in the Register.

By virtue of the foregoing, on a proposal by the Minister of Culture, following approval by the Minister for Public Administrations, in agreement with the Council of State and after deliberation by the Council of Ministers at its meeting on October 18, 1991,

I DECREE AS FOLLOWS:

Sole Article. The Regulations for the Implementation of Articles 129 and 130 of Law No. 22 of November 11, 1987, on the General Registry of Intellectual Property, annexed hereto, are approved.

TRANSITIONAL PROVISIONS

First. Applications for registration or entries filed prior to the entry into force of this Royal Decree shall be processed according to the Order of February 15, 1949.

Second. Until such time as the appropriate implementing provisions for this Royal Decree have been enacted the provisions laid down in Decree No. 2165 of July 15, 1965, on the appointment of the Registrar General of Intellectual Property shall remain in force.

REPEAL PROVISION

All provisions contrary to those laid down in these Regulations, and in particular the following, are repealed:

Articles 22 to 40 of the Royal Decree of September 3, 1880, Approving the Regulations for the Implementation of the Law of January 10, 1879, on Intellectual Property;

Decree No. 2165 of July 15, 1965, on the Functions, Rank and Appointment of the Registrar General of Intellectual Property, without prejudice to the terms of the Second Transitional Provision hereof.

FINAL PROVISION

The Minister of Culture is authorized to enact such provisions as are necessary for the implementation of these Regulations.

Regulations on the General Registry of Intellectual Property

CHAPTER I Organization and Aims

Article 1. The General Registry of Intellectual Property shall be under the authority of the Ministry of Culture and shall be the only such entity for the whole of the national territory.

In each of the provincial capitals, and also in Ceuta and Melilla, there shall be a provincial office of the Registry for the sole purpose of the reception and forwarding of applications for registration.

In the Autonomous Communities that have the appropriate recognized competence the functions of the provincial offices of the Registry shall be carried out by the departments that the Autonomous Administration shall have specified for the purpose.

Article 2. The object of the General Registry of Intellectual Property shall be the registration of the rights in the works, performances or productions that are protected by the Law, and also that of all instruments and contracts for the transmission, constitution, amendment or cancellation of real rights and of any other acts, whether voluntary or mandatory, that affect the said registrable rights.

Article 3. The functions of the General Registry of Intellectual Property shall be the following:

- (i) administrative action with a view to the protection by registration of the various manifestations of intellectual property, including the recording and publicizing of registrable rights, instruments and contracts;
- (ii) the issue of reports of technical character on matters pertaining to the Registry of Intellectual Property when so required by judges, courts or public bodies;
- (iii) any other function that applicable legislation and the international conventions in force currently assign to the Registry of Intellectual Property, or those that are hereinafter expressly assigned to it in matters within its competence.

Article 4. The General Registry of Intellectual Property is divided into the following Sections according to the classes of works, performances and productions that are the subject of intellectual property rights:

Section I: Literary and scientific works in whatever form, with the exception of those included in Section III;

Section II: Musical compositions with or without words;

Section III: Dramatic, dramatico-musical, choreographic and mimed works and theatrical works in general;

Section IV: Audiovisual works and productions;

Section V: Works of sculpture, drawing, painting, engraving and lithography, and other three-dimensional works, cartoons and comics, and also photographic works and works expressed by a process analogous to photography;

Section VI: Projections, plans, models and designs of works of architecture and engineering, and also graphs, maps and plans pertaining to topography, geography and science;

Section VII: Computer programs;

Section VIII: Performances of performers;

Section IX: Phonographic productions;

Section X: Photographs as such;

Section XI: The editorial productions provided for in Article 119 of the Law.

Every Section may, according to its nature, create a subsection for undisclosed works and productions.

CHAPTER II Principles Governing Registration

Article 5. The following are entitled to apply, either in person or through representatives, for the registrations for which the Registry is responsible:

- (i) authors and other original owners of intellectual property rights, for their own works, performances or productions;
- (ii) succeeding owners of intellectual property rights, without prejudice to the provisions of Article 8(2);
- (iii) producers of audiovisual works and editors of periodical publications, provided that they submit formal proof, in a public document, of their acquisition of the rights concerned.

Article 6. Instruments or contracts for registration may only be registered or recorded by virtue of a public document, legal judgment or authentic document issued by a judicial authority.

Article 7. The filing date of the application shall be considered the date of registration for all relevant purposes, provided that the said application meets all the essential requirements provided for in these Regulations.

In order to determine precedence between two or more registrations applied for on the same date and relating to the same work, production or performance, account shall be taken of the hour of filing, at the provincial office, of the application concerned together with the requisite supporting documents.

Once any right, instrument or contract has been registered or recorded at the Registry, no other of the same or an earlier date that is at variance or incompatible with it may be registered or recorded.

Article 8.

(1) For the recording of instruments or contracts by which intellectual property rights are transferred, amended or cancelled, the rights of the transferor shall have been previously registered or recorded, except in the circumstances contemplated in Article 5(iii).

(2) Where no such previous registration exists, the applicant shall submit formal proof that the person from whom he derives his rights acquired those rights by virtue of a public document.

Article 9. It shall be presumed, in the absence of proof to the contrary, that the rights registered exist and belong to their owner in the form specified in the relevant entry.

Article 10. The Registrar may, either *ex officio* or at the request of a party, correct simple material or factual errors as provided in Article 111 of the Law on Administrative Procedure.

Article 11.

(1) Entries in the Register shall be public. Public access to them may be by direct consultation of the entries, by the issue of certificates concerning them or by mere information notes.

(2) Direct consultation of the files kept at the Registry may only take place at the request of the owner of the intellectual property rights or of a person who proves a legitimate interest therein. Likewise the issue of certificates and consultation of the material in the files or of the names of the authors or coauthors of works disclosed under a pseudonym or sign or anonymously shall be confined to those persons who prove a direct interest.

(3) For the purposes of the provisions of Article 100 of the Law on Intellectual Property, the only elements of computer programs available for public consultation shall be the name or style of the applicant, the name, nationality and usual address of the author or authors, the nature and circumstances of the registered rights, the title and the date of publication.

Article 12. Entries shall be made in books or files or incorporated in physical media suitable for accommodating and expressing, in an incontrovertible manner and with sufficient legal security and guarantees of preservation and ease of access and understanding, all the particulars that are to be recorded at the Registry.

CHAPTER III

Applications for the Registration of the Works Provided for in the Law

Article 13. Applications for registration shall be made on official printed forms at the provincial offices of the Registry and also at those in Ceuta and Melilla.

Article 14. The provincial offices authorized to receive applications shall record the date, hour and minute of filing and shall satisfy themselves that the documentation specified in the applications has been submitted.

Article 15. Every provincial office shall forward applications and the corresponding documentation to the General Registry within a maximum period of seven days. The said documentation shall remain on file at the General Registry.

Article 16. Applications for the registration of intellectual property rights in the artistic, scientific and literary works provided for in Part I of Law No. 22 of November 11, 1987, on Intellectual Property, and also instruments and contracts relating to such rights, shall contain the following particulars:

(i)

(a) name or business style of the applicant and of the applicant's representative if any;

(b) name, nationality and usual address of the author or authors where they are not the applicant or applicants.

In the case of works disclosed under a pseudonym or sign or anonymously, the name or style of the natural person or legal entity responsible for the exercise of the intellectual property rights shall also be stated.

In the case of composite works, the names of the author or coauthors of the preexisting work shall be stated.

In the case of audiovisual works, the name or style of the producer and his or its nationality and usual address shall be stated;

(ii) nature and circumstances of the intellectual property right for which registration is sought;

(iii) title of the work;

(iv) description of the work or specification of the elements that permit full identification thereof as provided in Articles 18 to 24 of these Regulations;

(v) statement on whether or not the work has been disclosed. If it has been disclosed, date and place of disclosure.

Article 17. The description or identification of the works included in Section I of the Registry shall contain the following particulars or material submissions:

(a) type of work;

(b) number of pages or leaves;

(c) number of volumes and format;

(d) where the work has not been disclosed, a copy of the said work shall be deposited at the Registry; in the case of a disclosed work, the legal deposit and ISBN numbers shall be recorded.

Article 18. The description or identification of the works included in Section II of the Registry shall contain the following particulars or material submissions:

(a) type of work;

- (b) musical genre;
- (c) approximate duration;
- (d) instrumental arrangement of the work;
- (e) where the work has not been disclosed, a copy of the score shall be deposited at the Registry; in the case of a work disclosed by means of reproduction or publication, the legal deposit number shall be recorded.

Article 19. The description or identification of works included in Section III of the Registry shall contain the following particulars or material submissions:

- (a) type of work;
- (b) duration, in the case of dramatico-musical works;
- (c) where the work has not been disclosed, a copy, or where applicable the score, shall be deposited at the Registry; in the case of works disclosed by means of publication, the legal deposit and ISBN numbers shall be recorded.

In the case of choreographic or mimed works, the following shall be declared:

- (a) type of work;
- (b) duration;
- (c) the description shall be made by the submission of a written extract or summary of the work which shall not exceed 25 pages.

Article 20. The description or identification of works included in Section IV of the Registry shall contain the following particulars or material submissions:

- (a) type of work;
- (b) duration;
- (c) original language of the final version;
- (d) main performers;
- (e) an extract which shall contain the first 25 and last 25 phonograms, or a written summary of the work which shall not exceed 25 pages.

Article 21. The description or identification of works included in Section V of the Registry shall contain the following particulars or material submissions:

- (i) For works of sculpture:
 - (a) type of work;
 - (b) material used and sculptural technique;
 - (c) dimensions;
 - (d) a maximum of three photographs measuring 18 x 24 cm, which shall serve to convey the three-dimensional configuration of the work.
- (ii) For works of drawing and painting:
 - (a) type of work;
 - (b) type of medium;
 - (c) material and technique used;
 - (d) dimensions;
 - (e) a maximum of three copies or photographs measuring 18 x 24 cm that allow the work to be fully identified.
- (iii) For works of engraving and lithography:
 - (a) type of work;
 - (b) graphic process;
 - (c) physical medium;
 - (d) matrix;
 - (e) colors or inks used for printing;

- (f) format;
- (g) a maximum of three photographs measuring 18 x 24 cm that allow the work to be fully identified;
- (h) size of print run.
- (iv) For cartoons and comics:
 - (a) type of work;
 - (b) number of pages or leaves;
 - (c) number of volumes and format;
 - (d) legal deposit and ISBN numbers; where the works are unpublished, the applicant shall submit a copy or reproduction of the written text and copies or photographs of drawings depicting each of the most representative characters or scenes.
- (v) For photographic works, the applicant shall file two positive prints measuring 18 x 24 cm and the title.

Article 22. The description or identification of works included in Section VI of the Registry shall contain the following particulars or material submissions:

- (i) For architectural and engineering drawings, plans and designs, the type of work shall be stated, together with the number and date of the initialing of the plan by the Official College of either Engineers or Architects, as the case may be, or, where appropriate, a written extract or summary describing the work, which shall not exceed 25 pages.
 - (ii) For models:
 - (a) type of work;
 - (b) scale;
 - (c) a maximum of three photographs measuring 18 x 24 cm that convey the three-dimensional configuration of the project.
 - (iii) For graphs, maps and drawings relating to topography, geography and science in general:
 - (a) type of work;
 - (b) dimensions or scale;
 - (c) at least one reproduction of a part or detail that shows the essential elements of the work.

Article 23. The description or identification of the works included in Section VII of the Registry shall contain the following particulars or material submissions:

With regard to computer programs, the applicant shall describe the work by giving the first 10 and last 10 sheets of the source code or a summary of a maximum of 20 folio sheets of the users' manual relating to the program, provided that the said manual reproduces essential elements of the program;

In the case of unpublished programs, the entire source code shall be filed.

CHAPTER IV

Applications for Registration of the Performances and Productions Provided for in the Law

Article 24. Applications for the registration of the registrable intellectual property rights of performers in Section VIII shall contain the following particulars:

- (i) name or style of the applicant and of the applicant's representative where applicable;
- (ii) name, nationality and usual address of the performer where the performer is not the applicant;
- (iii) nature and circumstances of the rights for which registration is sought;
- (iv) detailed written description, not exceeding 25 folio sheets, of the performance;
- (v) place and date of the performance;
- (vi) title and author of the work performed.

Article 25. Applications for the registration of the intellectual property rights of producers of phonograms, registrable in Section IX, shall contain the following particulars:

- (i) name or style of the applicant and of the applicant's representative where applicable;
- (ii) name, nationality and usual address of the producer where the applicant is not the producer;
- (iii) nature and circumstances of the rights for which registration is sought;
- (iv) number of legal deposit;
- (v) title and author of the work incorporated in the phonogram;
- (vi) names of the main performers;
- (vii) type of phonogram and recording system;
- (viii) place and date of publication of the phonogram.

Article 26. Applications for the registration of the intellectual property rights in the case of mere photographs, registrable in Section X, shall contain the following particulars:

- (i) name or style of the applicant and of the applicant's representative where applicable;
- (ii) name, nationality and usual address of the photographer where the applicant is not the photographer;
- (iii) nature and circumstances of the rights for which registration is sought;
- (iv) the applicant shall file two positive prints measuring 18 x 24 cm;
- (v) place and date of disclosure, where appropriate.

Article 27. Applications for the registration of intellectual property rights pertaining to unpublished works that are in the public domain and registrable in Section XI shall contain the following particulars:

- (i) name or style of the applicant and of the applicant's representative where applicable;
- (ii) name, nationality and usual address of the publisher where the applicant is not the publisher;
- (iii) nature and circumstances of the rights for which registration is sought;
- (iv) statement of the legal deposit or ISBN numbers;
- (v) title of the work; name of the author or authors and year in which the work fell into the public domain;
- (vi) number of pages or leaves;
- (vii) place and date of first publication.

CHAPTER V Procedure

Article 28. The Registrar shall consider applications filed, and shall assess the legality of instruments and contracts relating to registrable rights, in the light of what emerges from the contents of the instruments and contracts themselves and from entries in the Register.

Article 29. Where the Registrar detects any rectifiable defect in the documents filed for registration, he shall notify the applicant accordingly, allowing a period of three months for rectification.

If, when three months from the date of the aforesaid notification have elapsed, the rectification of the defects notified has not taken place, the Registrar shall declare the procedure lapsed and shall pronounce the consequent refusal of registration, stating the reasons therefor.

Where the applicant does rectify the defects, the Registrar shall proceed with registration within three months following the said rectification. For the purposes of the first paragraph of Article 7 of these Regulations, the registration date shall be that of the receipt, by the Registry, of the requisite documents.

Article 30. Decisions denying registration issued by the Registrar shall be accompanied by a statement of grounds and notified to the interested parties.

Article 31. The appropriate actions may be brought directly before the civil courts against rulings of the Registrar.

CHAPTER VI Registrations

Article 32. Register entries shall contain the particulars specified in Articles 33 and 34. Those particulars shall be available to the public as provided in Article 11(1) and (3).

Article 33. In the case of artistic, scientific and literary works protected by the Law, the particulars specified in Article 16 of these Regulations shall be entered in the Register, with the exception of the name or style of the author or authors disclosing their work under a pseudonym or sign or anonymously, and the description of the work or specification of the elements permitting it to be fully identified.

Notwithstanding the above, the following descriptive particulars shall be the subject of registration:

- (a) works in Section I: type of work and legal deposit and ISBN numbers;
- (b) works in Section II: type of work and legal deposit number;
- (c) works in Section III: type of work and legal deposit and ISBN numbers; in the case of choreographic and mimed works, type of work only;
- (d) works in Section IV: type of work and original language of the final version;
- (e) works in Section V:
 - (a) works of sculpture: type of work, material used and sculptural technique;
 - (b) works of drawing and painting: type of work and medium and technique used;
 - (c) works of engraving and lithography: type of work and graphic process;
 - (d) cartoons and comics: type of work and legal deposit and ISBN numbers;
 - (e) photographic works: type of work;
- (f) works in Section VI:
 - (a) drawings, plans and architectural and engineering designs: type of work, or, where appropriate, number and date of initialing of the project;
 - (b) models: type of work and scale;
 - (c) graphs, maps and drawings pertaining to topography, geography and science in general: type of work and dimensions or scale;
- (g) computer programs: type of work.

Article 34. In the case of performances and productions protected by the Law, the following particulars shall be entered in the Register:

- (a) performances of performers: the particulars specified in Article 24, with the exception of the detailed written description;
- (b) phonographic productions: the particulars specified in Article 25;
- (c) photographs as such: the particulars specified in Article 26, with the exception of two positive prints;
- (d) unpublished works specified in Article 119 of the Law: the particulars specified in Article 27.

Article 35. Register entries shall lapse, either wholly or in part, through deletion.

The procedure for deletion shall be determined by the provisions laid down in mortgage legislation, subject to compatibility.

Article 36. In the case of the registration of encumbrances on intellectual property rights, the Law of December 16, 1954, on Movable Property in Mortgages and Pledges Without Change of Possession shall apply.



CHAPTER VII Precautionary Entries

Article 37. The following may request precautionary entries concerning their rights:

- (i) those who win favorable court rulings ordering the precautionary entry of a claim of ownership of intellectual property rights or the constitution, declaration, amendment or lapse thereof;
- (ii) those who win a seizure order in their favor which has been enforced in relation to the intellectual property rights of a debtor;
- (iii) those who have won a final judgment which, subject to prior procedural formalities, may be enforced in relation to intellectual property rights;
- (iv) those who are expressly authorized to do so by law.

Article 38.

(1) Precautionary entries shall lapse on deletion, expiry or conversion into registrations. The lapse of precautionary entries may be either total or partial.

(2) The periods for the lapse of precautionary entries and the procedure for their deletion shall be determined by the provisions of mortgage legislation.

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