

Copyright

in 26 jurisdictions worldwide

2013

Contributing editors: Andrew H Bart, Steven R Englund,
Susan J Kohlmann and Carletta F Higginson



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France

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Legislation and enforcement

1 What is the relevant legislation?

In France, part I of the Intellectual Property Code (the IPC), called 'Literary and Artistic Property', is the main legislation about authors' rights mentioned in book I of part I of this Code, and neighbouring rights mentioned in book II, also of part I of this Code. Instead of 'copyright law', French law uses the concepts of 'authors' rights' and 'neighbouring rights'. There is also a specific protection for the rights of 'database producers' (part I of the IPC, book III, articles 341-1 et seq).

These rights are also protected by the French Constitution and particularly by the Declaration of 1789 (ie, Decision No. 2006-540 of the Constitution Council).

In addition, international law is a major source of legislation applicable to both authors' rights and neighbouring rights. It includes the Berne Convention (the French writer Victor Hugo was one of its most important advocates), the Rome Convention, the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) and the WIPO Treaty and bilateral international conventions.

European Union (EU) law has a major impact on both authors' rights and neighbouring rights. Relevant EU law is found in general EU provisions regarding freedom of circulation of goods and non-discrimination, as well as in harmonised EU legislation (ie, Directive 2001/29/EC of 22 May 2001 on the harmonisation of certain aspects of copyright or the legislation about industrial designs), which may, under French law, be protected by both design law and authors' rights.

Both France and the EU have signed the Anti-Counterfeiting Trade Agreement, which contains provisions about the enforcement of intellectual property rights. However, the implementation of this treaty is been hotly debated throughout the EU.

Finally, soft law, such as conventions, agreements with syndicates and common practice, is an important source of law. This is the case for standard contracts regarding works used for advertising purposes or for the code of uses regarding photographic illustrations.

2 Who enforces it?

First, rights may be enforced by their owners. Thus, seizure proceedings for collecting evidence and enforcement actions can be initiated by the author or entitled beneficiaries or assigns (article L332-1 of the IPC). Neighbouring rights can be enforced by their owners. These rights include the rights of performers, phonogram producers, videogram producers or those that relate to satellite broadcasting of a performer's performance, a phonogram, a videogram or the programs of an audio-visual communication. In addition, the database producer is entitled to enforce its rights (articles L341-1 et seq of the IPC). Notwithstanding an assignment of rights, both the author and the performer may still enforce their moral rights.

Second, as an exception in French procedural law, societies that collect and distribute authors' royalties, and the royalties of performers and phonogram and videogram producers, are entitled to take legal action to defend the rights for which they are responsible under their statutes (article L321-1 of the IPC).

Third, because of public policy reasons, either the police or customs officials may initiate proceedings for the enforcement of authors' and neighbouring rights.

3 Are there any specific provisions of your copyright laws that address the digital exploitation of works? Are there separate statutory provisions that do so? If so, please describe them.

Yes. Provisions regarding the limits of authors' rights are found in article L122-5 of the IPC, such as acts necessary to access an electronic database, or a transitory or accessory reproduction that is an essential part of an electronic process whose sole purpose is to allow the legitimate use of the work or its transmission between intermediaries. This article also contains provisions regarding the electronic preservation of works.

In addition, provisions in a law of 1 March 2012 regarding the digital use of unavailable books from the 20th century have just been implemented to facilitate the electronic reproduction of such books.

4 Do your copyright laws have extraterritorial application to deal with foreign-owned or foreign-operated websites that infringe copyright?

There are no specific legal provisions as to the protection of foreign-owned or foreign-operated websites that would infringe a French copyright. Nonetheless, under French law and practice, courts will consider whether they have jurisdiction against a particular foreign defendant and whether behaviours constitute copyright infringement. French courts will be deemed competent to rule a case involving a foreign website when 'there is a sufficient, substantial or significant connecting link between the harming behaviour and the national market'. For instance, the Supreme Court quashed a decision accepting the jurisdiction of the French courts in a case where the allegedly infringing publication was in Italian and had only been published in Italy (Cass Crim, 9 September 2008, No. 07-87281). The Paris Court of First Instance also rejected its jurisdiction in a case regarding the famous Che Guevara photograph from Korda regarding sales of T-shirts from a website owned by a US company. After deciding on jurisdiction, French courts consider whether the alleged infringement actually constitutes an infringement in France. Regarding conflict of laws, the French Supreme Court has ruled that the scope of the author's protection is set by the law where protection is sought (Cass Civ 1, 10 April 2013, cases n°11-12.508 and 11-12.509).

Agency**5** Is there a centralised copyright agency? What does this agency do?

There is no public centralised copyright agency. Nonetheless, there are many civil societies in charge of the collection of authors' and performers' royalties, such as the musical composers' society (SACEM: www.sacem.fr), the drama composers' society (SACD: www.sacd.fr), the multimedia authors' society (SCAM; www.scam.fr) or the society for authors of the written word (SDGL: www.sgdl.org), which assist rights owners, manage royalties, keep records of works and provide standard contracts to their members.

There is also the Computer Programs Agency (APP: app.legalis.net), an association tending to the protection of the rights of computer programmers, which can carry out seizures regarding computer programs and databases.

The French Ministry of Culture is advised by the Superior Counsel of Literary and Artistic Property (www.cspla.culture.gouv.fr).

Subject matter and scope of copyright**6** What types of works are copyrightable?

According to article L111-1 of the IPC, any work of the mind created by an author may be protected by authors' rights. More particularly, article L112-2 of the IPC specifies that 'The provisions of this Code shall protect the rights of authors in all works of the mind, whatever their kind, form of expression, merit or purpose'.

All sorts of intellectual creation, or 'works of mind' according to the French legal code, such as literature, drawings, movies, industrial designs (eg, bottle openers), computer programs or photographs, may be protected by authors' rights. For instance, the Appeals Court of Paris (PIBD 2007, 847, IIID-183) has ruled that the registered industrial design for sanitary facilities was protected by authors' rights and condemned the defendant for infringement. In addition, websites may be protected by authors' rights (Cass Civ 1, 12 May 2011 RIPIA No. 245 p19 et seq) as well as software (Cass Civ 1, Sept 2011, RIDA 2011, No. 230 p249).

There is also a non-comprehensive list of protectable works in article L112-2 of the IPC and in article 2 of the Berne Convention that includes the above-mentioned works.

7 What types of rights are covered by copyright?

French law provides that authors have moral (see question 14) and patrimonial rights, which include the right to authorise the representation, reproduction, distribution, right of communication to the public, adaptation, translation of the protected work and resale right, and *droit de suite*.

8 What may not be protected by copyright?

Mere ideas or concepts are not protected by copyright (eg, the idea for a TV show). In addition, technical works may not be protected, as has been judged in a well-known and highly debated case about perfumes and in a case about an attorney's brief. Functionality as a bar to authors' rights is often argued in cases of industrial designs or some practical works (eg, commercial catalogues, legal documents).

9 Do the doctrines of 'fair use' or 'fair dealing' exist?

While there is no doctrine of fair use or of fair dealing, French authors' law provides some exceptions allowing the use of works that are listed in article L122-5 of the IPC and in EU Directive No. 2001/29, including private representations or reproductions, press reviews, dissemination of political speeches, parody and caricature, exceptions to authors' rights available to libraries and museums, the

reproduction or representation of works for informative purposes and so on. For instance, based on EU Directive No. 2001/29 and on the 'theory of accessory', the Supreme Court ruled that the appearance of protected illustrations within a movie was not subject to prior authorisation of the author, since the latter only appear as a usual element of the movie's set and are not shown in the normal way of their use (Cass Civ 1, 12 May 2012, RIDA No. 229 p457).

Because of European Community law, there is also the exception of exhaustion of rights, which specifies that once the sale of physical objects of a work has been authorised by the right owner in the EU, the subsequent sale of this object cannot be prohibited by the latter.

10 What are the standards used in determining whether a particular use is fair?

As provided by international and EU laws, the exceptions listed in article L122-5 mentioned above must meet the conditions of the 'triple test' and must:

- correspond to one of the exceptions listed in the law;
- not conflict with a normal exploitation of the work; and
- not unreasonably prejudice the legitimate interests of the author.

11 Are architectural works protected by copyright? How?

Article L112-2, 12° of the IPC expressly states that 'plans, sketches and three-dimensional works relative to geography, topography, architecture and science' are considered intellectual creations, or 'works of the mind', protectable by authors' rights. In France, there is abundant case law about the protection of architectural works. The unauthorised use of building plans, for example, has been ruled to be an infringement. This has also been ruled in particular cases where an architectural work with special lighting or illumination techniques has been reproduced for postcards (eg, a case regarding the Eiffel Tower).

12 Are performance rights covered by copyright? How?

Performance rights are neighbouring rights. French law provides that the artist-performer is entitled to moral rights on his or her name, title and interpretation. In addition, the fixing, reproduction and communication of an artist's interpretation is subject to his or her consent. French law also has provisions to economically protect the artist, such as the condition to specify in the contract a distinct way of payment for each type of use of the artist's interpretation.

13 Are other 'neighbouring rights' recognised? How?

In France, integrated circuit layouts may be protected by industrial property rights following their registration at the National Institute of Intellectual Property (the INPI: www.inpi.fr). Less than 10 integrated circuit layouts are filed every year at the French registry. The other neighbouring rights are rights for performers (protected by articles L212-1 et seq of the IPC), phonograms and videogram producers (protected respectively by articles L213-1 et seq and L215-1 et seq of the IPC), and the rights of audio-visual communication companies (article L216-1). Basically, French law provides a monopoly to holders of neighbouring rights, protected by criminal law penalties. Furthermore, in the case of performers, French law provides some moral rights.

In addition, there are some specific rights (which are not exactly neighbouring rights), such as rights on databases, which prohibit extractions or reuse of a substantial part of a database (article L342-1 et seq of the IPC) and exclusive rights for sports events organisers (article L333-1 of the Sports Code).

Regarding recent developments, case law based on general civil law has recognised 'property rights'.

14 Are moral rights recognised?

Whereas authors' moral rights are wider and more protected than those of performers, both enjoy moral rights. Authors have a perpetual, inalienable and imprescriptible right to respect for their name, their authorship and their work. In addition, only authors have the right to divulge their work. In practice, authors may try to enforce moral rights either when the assignee of authors' rights omits to mention the author's name (ie, in cases of industrial designs or photographs), intends to change or destroy the work for practical purposes (ie, the action by Madame Claude Lalanne against the City of Paris regarding the destruction of the garden she created), or in infringement or counterfeiting cases, where both the assignee and the author request the prohibition measures and the indemnification of the damage resulting from the infringement or counterfeiting. Thus, in many cases regarding industrial designs protected by authors' rights, both the author and the assignee appear as plaintiffs.

Authors also enjoy the right to reconsider or of withdrawal, even after publication of their work, provided there is indemnification of the assignee of authors' rights.

The moral rights of authors, who as civil servants have created works, have restrictions with regards to the right of disclosure and use of the work.

Copyright formalities**15** Is there a requirement of copyright notice?

There is no requirement of copyright notice, as authors of a work of the mind enjoy authors' rights in that work by the mere fact of its creation, an exclusive incorporeal property right that shall be enforceable against all persons (article L111-1 of the IPC). Furthermore, the Berne Convention, which has harmonised authors' laws, expressly provides in article 5.2 that the enjoyment of authors' rights shall not be subject to any formality.

16 What are the consequences for failure to display a copyright notice?

Not applicable.

17 Is there a requirement of copyright deposit?

For conservation and public policy reasons, there is a requirement to deposit published works at the National Public Library, at the National Audio-visual Institute or at the National Cinema Centre, or at habilitated libraries. Such obligation is not applicable to private documents.

This obligation is absolutely independent to authors' rights, as under French law, authors' rights are generated by the mere creation of a work.

18 What are the consequences for failure to make a copyright deposit?

Failure to deposit published works may lead to a criminal law fine (article L133-1 of the Inheritance Code).

19 Is there a system for copyright registration?

As mentioned earlier, there is no system for copyright registration as authors' rights are generated by the creation of works. Nonetheless, for practical purposes of identifying and dating a work, there may be private registrations at the authors' societies mentioned in question 5, and private registrations with bailiffs and public notaries. Such registrations are purely private. For instance, the Paris Court of First Instance has condemned for false advertising an individual who offered, for €800, an 'affidavit of intellectual property', valid for life in the 163 member states of the Berne Union (PIBD No. 941-III-380).

Industrial designs may be registered at the INPI, to benefit from protection in France, at the Office for Harmonization of the Internal Market (OHIM: <http://oami.europa.eu>) for protection in the entire EU and at the WIPO to obtain an international design registration.

20 Is copyright registration mandatory?

No. Nonetheless, private registration may help to establish rights.

21 How do you apply for a copyright registration?

For the private registrations mentioned in question 19, it will depend on the relevant authors' society. Regarding private registrations before public notaries or bailiffs, the public officer will acknowledge the identity of the person presenting the work and add to the officer's records the documents or pieces of evidence presented.

22 What are the fees to apply for a copyright registration?

The fees depend on where the works are registered. Authors' societies charge, for depositing works, less than €100 per work for a couple of years. The Computer Programs Agency charges a little more than €200. Bailiffs and public notaries charge public recordal fees as well as private fees of up to several hundred euros without any time limit to keep the records.

23 What are the consequences for failure to register a copyrighted work?

Evidence of the opposed work and of the date of creation may be more difficult to establish.

Ownership and transfer**24** Who is the owner of a copyrighted work?

As a matter of principle, authors as individuals are owners of copyrighted work, which may be assigned once they are created. French law presumes that the person under which the work has been published is deemed to be the author. In addition, French law expressly provides the prohibition of a global assignment of future works.

In practice, works are often created by several individuals. In this case, according to French law there may be a collaborative work (the contribution of each individual is distinguishable) or a collective work (eg, an encyclopedia) where the contribution of each individual is not distinguishable.

Exceptionally, French law provides that authors' rights on collective works may be owned by either natural or legal persons, as rights on collective works are owned by the natural or legal person who initiates it, edits it and publishes it under his or her direction and name, and in which the personal contributions of the various authors who participated in its production are merged in the overall work for which they were conceived, without it being possible to attribute to each author a separate right in the work as created.

In addition, exceptionally, unless otherwise provided by statutory provision or stipulation, the economic rights in software and its documentation created by one or more employees in the execution of their duties or following the instructions given by their employer shall be the property of the employer, and he or she exclusively shall be entitled to exercise them.

Besides, French law presumes that authors of audio-visual works include the author of a script or scenario, the author of an adaptation, the author of spoken text, the author of musical compositions and the director.

Regarding the advertising industry, French law provides an assignment to the producer as long as the contract between the agency and the producer specifies the separate remuneration payable for each mode of exploitation of the work, in particular, with

reference to the geographical area, the duration of exploitation, the size of the printing and the nature of the medium.

Finally, regarding proof of ownership, under French law authorship belongs, unless proved otherwise, to the person or persons under whose name the work has been disclosed.

25 May an employer own a copyrighted work made by an employee?

French law expressly provides that an employment or service contract does not limit the rule according to which the author is the owner of authors' rights for a created work. Most assignments of authors' rights need to be in writing. Furthermore, French law provides that, to be valid, an assignment of patrimonial authors' rights must specify separately each right assigned, the field of exploitation of the assigned rights, its scope and purpose, and its location and duration. In addition, as a matter of principle, the royalties due to the author must be proportionate to the revenue from the sale or exploitation of the work.

Exceptionally, in cases of works created by civil servants, the state is the owner of the patrimonial rights on such works provided they were created during the exercise of the civil servant's functions (the wording is similar to requirements used in French patent law), or according to received instructions and as long as the use of such work is strictly necessary for a mission of public service. For a commercial use of the work, the state shall only own a preference right.

In addition exceptionally, in cases of collective works (ie, when the contribution of each person is not distinguishable), the employer may be directly vested of authors' rights.

Regarding the economic rights on software, please see question 24.

26 May a hiring party own a copyrighted work made by an independent contractor?

As mentioned above regarding employees, a hiring party may only own authors' rights once they have been assigned according to the provisions of the IPC, or in cases where it is a collective work. In particular, the IPC expressly provides that authors' rights are independent of any property right in the physical object.

There are specific provisions for audio-visual production contracts regarding the assignment of rights to the producer (articles L132-23 et seq of the IPC).

27 May a copyrighted work be co-owned?

As a matter of principle in French law, authors' rights are solely vested on the author. Nonetheless, as mentioned in question 24, French law also contains provisions regarding works created by several individuals. In practice, most profitable works are collective or collaborative works from various individuals (ie, websites, cinematographical works). Thus, authors' rights may be owned jointly. In cases of collaborative works, co-authors must exercise their rights with a mutual agreement, which in practice may lead to inadmissible infringement cases because the co-authors had not initiated the proceedings jointly.

28 May rights be transferred?

Authors' rights may be transferred according to the conditions set in the IPC; that is to say, as mentioned in question 25, the assignment must specify each right assigned as well as the scope of the assignment and provide proportionate royalties to the author, unless the agreement falls into one of the exceptions for a lump sum (ie, it is impossible to calculate proportional royalties, assignment on rights on a computer program, first edition of a scientific work and so on).

29 May rights be licensed?

Like any other property right, authors' rights may be licensed. French law even specifies that such rights can be licensed at no financial charge; this may be applicable, for example, to freeware computer programs. In practice, successful authors' rights are often licensed (eg, licence rights on characters or on paintings for clothing or toys).

30 Are there compulsory licences? What are they?

There are several compulsory licences under French law for both authors' rights and neighbouring rights. The main ones are private copy licences, those for lending books at a library and licences generated by competition law. First, there is a compulsory licence of private copy, whereby authors who own authors' rights, and performers and producers of phonograms and videograms who own neighbouring rights, receive royalties from manufacturers or importers of recording mediums that may be used for reproduction of works for private use. These royalties are administrated by the Royalty Collection and Distribution Societies. Second, there is a compulsory licence for the public lending of books at libraries, paid by the state and book buyers for libraries. The royalties are paid to authors, editors and to retirement funds for authors. This licence is administrated by the Royalty Collection and Distribution Societies. There are also radio and television broadcasting compulsory licences. Finally, European competition law has led to compulsory licences that aim to limit any abuse of dominant position, as ruled in the well-known *Magill* and *Microsoft* cases.

31 Are licences administered by performing rights societies? How?

Yes: private copy licences and book-lending licences for libraries, which are compulsory licences administrated by Royalty Collection and Distribution Societies. Other non-compulsory licences may, at the author's request upon admission to the Royalty Collection and Distribution Societies, be administrated by these societies as well.

32 Is there any provision for the termination of transfers of rights?

Yes; where the activities of the editor or the producer have ceased more than three months earlier or where judicial liquidation is pronounced, the IPC provides that the author may request termination of the contract. In addition, according to general civil law, in cases of non-fulfilment of major contractual obligations, such as lack of sustained exploitation of the work or lack of rendering accounts.

33 Can documents evidencing transfers and other transactions be recorded with a government agency?

Contracts may be privately recorded by attorneys or by public notaries. Contracts regarding registered designs may be recorded by public agencies: the OAIM, for EU designs; the INPI, for French designs; or at the WIPO, for international registrations. In addition, contracts regarding cinematic works may be recorded at the National Centre for Cinematography. Such recordal of cinematic works is necessary to oppose contractual rights to third parties.

Duration of copyright

34 When does copyright protection begin?

As a matter of principle, authors' rights start from the creation of the work. Exceptionally, for pseudonymous, anonymous or collective works, the term of the exclusive right starts from the publication.

35 How long does copyright protection last?

In general, copyright protection lasts throughout the author's entire life and during the 70 years following the year of his or her death. For collaborative works, the 70-year period starts from the death of the last contributor. Regarding pseudonymous, anonymous (unless the author's identity is then known) or collective works published within 70 years of their creation, there is a 70-year term starting the year following publication. Should such work be published in instalments, the term shall run from 1 January of the calendar year following the date on which each instalment was published after this 70-year term. For pseudonymous, anonymous or collective works published after 70 years from their creation, the term of protection shall be of 25 years after the year of its publication.

Authors' moral rights are perpetual and imprescriptible, and may be exercised by heirs.

36 Does copyright duration depend on when a particular work was created or published?

It does, as the term of authors' rights has evolved in past years until its European harmonisation entered into force with the French law of 27 March 1997. In addition, French law has provided several 'war extensions', which tend to extend the duration of authors' rights. Thus, on a case-by-case basis, it is necessary to check the date of creation or of publication of the work and whether the author has died for France (like Antoine de Saint-Exupéry, the author of *The Little Prince*), as this may lead to an extension of the term.

37 Do terms of copyright have to be renewed? How?

There is no renewal of the term of authors' rights. The term of registered designs may be renewed up to five times for terms of five years.

38 Has your jurisdiction extended the term of copyright protection?

Yes, in 1997; please see question 36.

Copyright infringement and remedies**39** What constitutes copyright infringement?

Any edition of protected works may constitute an infringement of authors' rights. This includes an adaptation of a protected work as long as the protected work and the allegedly infringing work are sufficiently similar. This has been judged in cases of a similar structure of a dictionary, of songs that lead to the same impression, or of clothing or bags.

40 Does secondary liability exist for indirect copyright infringement? What actions incur such liability?

It does, provided there are imputable doings to the defendant, as traditionally French criminal law establishes that the accomplice is as liable as the main author of an offence. In addition, criminal law penalties may be more important if the infringement is performed within an organised group.

As elsewhere in the world, there has been abundant case law about the liability of internet providers, particularly when such providers delivered services other than mere technological communication services.

41 What remedies are available against a copyright infringer?

Prohibition and destruction orders are the most important remedies granted, as well as financial compensation and publication measures. Often such remedies benefit from immediate execution and can

be enforced even if there is an appeal. With the implementation of the EU directive on the enforcement of intellectual property rights, an order to recall infringing goods is also granted quite commonly.

42 Is there a time limit for seeking remedies?

The general five-year time limit for seeking remedies applies for authors' rights. The deadline starts from the last allegedly infringing act, which means that if the infringement has not stopped (eg, an allegedly infringing piece of music, picture or piece of art still accessible on the internet), the deadline does not even start.

As mentioned earlier, there is no deadline for exercising moral rights.

In any case, a delay in initiating an action may lead to less important remedies because of a sort of tacit acceptance. In addition, in the case of a non-identical copy, it may be a persuasive element for lack of infringement, as the plaintiff has not immediately initiated proceedings.

43 Are monetary damages available for copyright infringement?

In France, as with any case regarding civil liability, courts may grant monetary damages to repair the prejudice suffered from the infringement. Since the implementation of the EU directive on the enforcement of intellectual property rights, French law also specifies that, as an alternative to the general way of assessment of damages, courts may, at the plaintiff's request, ask for a lump sum that shall be no less than the royalties that should have been paid. The change of legislation has had an important psychological impact among practitioners and jurisdictions in the assessment of damages.

44 Can attorneys' fees and costs be claimed in an action for copyright infringement?

These costs, which usually range from €200 to €2,000 in first instance proceedings and from €200 to €2,000 in appeal proceedings, may be claimed from the losing party upon a court order (due to a reform, appeals costs should substantially decrease for appeals introduced after 1 January 2012). Attorneys' fees may also be claimed from the losing party. The recoverable amount of attorneys' fees is set at the court's discretion; in practice, more and more often French courts grant an amount close to the fees justified by produced invoices.

45 Are there criminal copyright provisions? What are they?

There are criminal law provisions (up to five years of prison and a fine of €500,000), which tend to protect French authors' rights and neighbouring rights. These provisions cover infringement activity as well as activity that purposefully harms technical measures intended to safeguard those works are protected by authors' rights or neighbouring rights. Penalties also include the suspension of access to an online communications service for wrongdoings committed with an online communications service.

46 Are there any specific liabilities, remedies or defences for online copyright infringement?

There has been a lot of debate and case law in France regarding the liability of internet service providers in copyright infringement cases. Following EU harmonisation, French law provides specific conditions for the liability of internet service providers (due notification and delay in responding to notification). Thus, in cases where the service provider had an active role in treating the information or when the service provider has, after a due notification, delayed in withdrawing the infringing content, courts have considered that there was a liability for infringement. In addition, regarding

Update and trends

On 1 February 2013, a well-publicised agreement was reached between Google and French editors about the use of journalistic works. On 4 October 2012, an EU directive about orphan works was adopted. Also, the French constitutional counsel ruled on 15 January 2013 that some provisions regarding royalties in the case of private copies were contrary to the French Constitution.

remedies, there are specific laws to enforce authors' and neighbouring rights such as the HADOPI or the three strikes law aimed at stopping illegal downloading and file sharing.

47 How may copyright infringement be prevented?

An increased public awareness of the importance of intellectual property rights would be very helpful. Once people understand the value of creative works, there might be less willingness to infringe on the rights of others. One solution with regard to the digital arena could be compulsory licences for digital use of a work, although this could raise other issues concerning the protection of moral rights or the scope of an author's control of the use of a work.

Relationship to foreign rights**48** Which international copyright conventions does your country belong to?

France is a founding member of the Berne Convention and belongs to the main international intellectual property law and authors' rights conventions:

- the TRIPS;
- the Universal Convention on Authors' Rights;
- the WIPO Treaty on Authors' Rights;
- the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations;
- the Convention for the Protection of Producers of Phonograms Against Unauthorised Duplication of Their Phonograms;
- the WIPO Treaty on Performances and Phonograms Treaty; and
- ACTA (its implementation is under discussion).

49 What obligations are imposed by your country's membership of international copyright conventions?

Most international conventions provide a lower degree of protection than French laws. The Berne Convention sets the basic principle of national treatment of citizens of member states of the Convention. In addition, the TRIPS has set enforceable rules and the WIPO treaties have led to updates of French law for its application regarding modern technologies.

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