



AFRICAN REGIONAL INTELLECTUAL PROPERTY
ORGANIZATION (ARIPO)

KAMPALA PROTOCOL ON
VOLUNTARY REGISTRATION OF
COPYRIGHT AND RELATED
RIGHTS

ADOPTED AT KAMPALA



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ARIPO
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AFRICAN REGIONAL INTELLECTUAL PROPERTY
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KAMPALA PROTOCOL ON VOLUNTARY REGISTRATION OF
COPYRIGHT AND RELATED RIGHTS WITHIN THE FRAMEWORK OF THE
AFRICAN REGIONAL INTELLECTUAL PROPERTY ORGANIZATION (ARIPO)

(adopted on August 28, 2021 at Kampala, Uganda)

PROTOCOL ON VOLUNTARY REGISTRATION OF COPYRIGHT AND RELATED RIGHTS

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PROTOCOL ON VOLUNTARY REGISTRATION OF COPYRIGHT AND RELATED RIGHTS

PREAMBLE

We the Contracting States to this Protocol,

Having regard to the Agreement on the creation of the African Regional Intellectual Property Organization (ARIPO), concluded in Lusaka, Zambia on December 9, 1976;

Desirous of furthering the objectives of the Lusaka Agreement which provides for the establishment of common organs or services as and when it may be necessary or desirable for the coordination, harmonization and development of the Intellectual Property activities affecting Member States of ARIPO;

Further having regard to Article III (i) of the Lusaka Agreement mandating ARIPO to promote, in its members, the development of copyright and related rights and to ensure that copyright and related rights contribute to the economic, social and cultural development of its members and of the African region as a whole;

Cognizant of the principles included in international instruments established under the Berne Convention for the Protection of Literary and Artistic Works (Paris Act of 1971), the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (1961), Agreement on Trade Related Aspects of Intellectual Property Rights (1994), WIPO Copyright Treaty (1996), WIPO Performances and Phonograms Treaty (1996), the Beijing Treaty on Audiovisual Performances (2012) and other relevant international instruments;

Realizing the need for cooperation among the contracting states in order to ensure sustainable development of copyright and related rights through a coordinated and concerted approach;

Have agreed as follows:

Article 1

Interpretation

For the purpose of this Protocol, unless the context otherwise requires,

- (a) “Administrative Council” means the ARIPO Administrative Council set up in terms of Article VII of the Lusaka Agreement;
- (b) “ARIPO database” means a database on voluntary registration maintained by ARIPO pursuant to this Protocol;
- (c) “contracting state” means any state that becomes party to this Protocol in accordance with Article 19;
- (d) “copyright or related rights holder” means a person who owns the exclusive right to a copyright or related rights, as the case may be;
- (e) “national competent authority” means an authority within a contracting state with the powers to implement this Protocol;
- (f) “person” means a natural or legal person;
- (g) “regulations” means regulations made under this Protocol;
- (h) “voluntary registration” means registration of copyright or related rights with a national competent authority or ARIPO under this Protocol.

Article 2

Scope

This Protocol shall govern the contracting states in the voluntary registration and notification of copyright and related rights.

Article 3

Objectives

The objectives of this Protocol are to:

- (a) establish, manage, facilitate and coordinate a system for voluntary registration and notification of copyright and related rights;
- (b) uphold common principles regarding voluntary registration and notification of copyright and related rights;
- (c) provide copyright holders means of presumption to authorship or ownership of rights; and
- (d) to ensure that creative industries contribute to the socio-economic development of countries.

Article 4

Administration

For purposes of facilitating voluntary registration and notification, ARIPO shall:

- (a) Receive and register the applications in the database
- (b) receive, from a contracting state, notification of copyright and related rights registered by the national competent authority within the contracting state;
- (c) enter into the database, information on copyright and related rights registered in a contracting state or by ARIPO; and
- (d) perform such other functions as are necessary for the furtherance of the objectives of this Protocol.

Article 5

ARIPO database

1. ARIPO shall, in exercising its functions under Article 4, establish, manage, update and maintain a database into which data on copyright and related rights registered or notified under this Protocol shall be entered and kept.
2. The ARIPO database established under paragraph 1 shall be a database for reference and search by any person to whom access shall be granted by ARIPO upon fulfilling the necessary requirements prescribed under the regulations.
3. A person who wishes to have access to the ARIPO database for copyright and related rights shall make an application to ARIPO in a prescribed form upon payment of the prescribed fees.

Article 6

National competent authority

1. A contracting state:
 - (a) shall notify ARIPO of a body or entity designated as its national competent authority responsible for undertaking the registration of copyright and related rights at the national level; or
 - (b) may designate ARIPO to undertake the function of registering copyright and related rights on its behalf.
2. The national competent authority shall be responsible for receiving and maintaining data on copyright and related rights at the national level.
3. Where ARIPO is designated under paragraph 1(b), ARIPO shall carry out the responsibilities of the national competent authority in paragraph 2 unless such responsibilities are revoked in the prescribed form by a contracting state within a six (6) month notice period.
4. The revocation under paragraph 3 shall not affect any application filed prior to the expiration of the six (6) months period or registration or notification of copyright and related rights effected upon such an application.

Article 7

Application for voluntary registration and notification of copyright and related rights

1. The author or the owner of, or other person interested in the copyright or related rights in, any work or production may make an application in the prescribed form accompanied by the prescribed fee to the national competent authority or ARIPO for registration of particulars of the work or production in the database.
2. The requirements and procedure for application for voluntary registration and notification shall be prescribed in the regulations.

Article 8

Registration of copyright and related rights

1. The national competent authority or ARIPO, subject to Article 7:
 - (a) may accept the application; or
 - (b) refuse the application where it does not comply with the requirements provided for in this Protocol and its regulations
2. Where an application is accepted, the copyright or related rights shall be registered and entered into the database.
3. The registration of copyright and related rights under this Article shall be *prima facie* evidence of the particulars entered in the database and documents purporting to be copies of any entries therein, or extracts therefrom certified by ARIPO and sealed with the seal of ARIPO shall be admissible in evidence in all courts without further proof or production of the original.

Article 9

Notification of registered copyright and related rights

1. A national competent authority of a contracting state shall, upon registration of a copyright or related rights, notify ARIPO within the period as prescribed in the regulations.
2. The notification in paragraph 1 shall be made in a prescribed form accompanied by a copy of the registration certificate or proof of registration issued by the national competent authority.
3. The owner of the copyright or related rights shall pay the prescribed fee as specified under the regulations.
4. ARIPO shall upon receipt of notification and fees enter the copyright or related rights into the ARIPO database.

Article 10

Withdrawal of application

A person who has filed an application in terms of Article 7 may, in the prescribed form at any time before registration, apply for the withdrawal of the application.

Article 11

Cancellation of registration

1. A national competent authority or ARIPO shall cancel the registration of a copyright or related rights in the following circumstances:
 - (a) where the initial registration was erroneously made;
 - (b) where the initial registration was fraudulently procured;
 - (c) by an order of a court or any other competent authority, or
 - (d) pursuant to the law of the contracting state.

2. A cancellation under paragraph 1 may be initiated by:
 - (a) a national competent authority or ARIPO;
 - (b) a copyright or related rights holder; or
 - (c) a person aggrieved by the registration of a copyright or related rights in the prescribed form.

3. ARIPO shall within a prescribed period, notify a relevant national competent authority of the cancellation and where cancellation is made at the national level, the national competent authority shall notify ARIPO of the cancellation.

Article 12

Removal from ARIPO database

ARIPO shall remove a copyright or related rights from the ARIPO database where:

- (a) a cancellation has been made under Article 11; or
- (b) there is a clear and obvious error made by the entry into the ARIPO database.

Article 13

Change in ownership or variation of particulars

1. A person shall apply for change in ownership of a copyright or related rights to a national competent authority or ARIPO as the case may be.
2. The owner of a registered copyright or related rights shall as soon as practicable apply for the registration of any variations to particulars through the national competent authority or ARIPO as the case may be.
3. An application made under paragraphs 1 and 2 shall be made in a prescribed form upon payment of a prescribed fee.
4. An application for change in ownership or particulars of ownership of copyright or related rights may be accepted or rejected.
5. Where an application is accepted by ARIPO it shall be entered into the ARIPO database and ARIPO shall notify the national competent authority.
6. Where an application is accepted by a national competent authority, ARIPO shall be notified.
7. Where an application is rejected, the applicant may appeal to the Board as provided for in Article 15.

Article 14

Dispute Resolution

1. Any dispute or claim arising out of this Protocol may be resolved through direct negotiations between or among the Parties in dispute. Where negotiations fail, the Parties shall submit the dispute to the dispute settlement forum as provided for in the regulations.
2. Where a dispute arises between applicants and third parties on the application or interpretation of this Protocol, ARIPO, in consultation with contracting states, shall provide for dispute resolution mechanisms applicable to such a dispute.
3. The dispute resolution mechanisms shall be provided in the regulations.

Article 15

Appeal

1. An Appeal shall be made to the Board established in terms of Article 16 by a person whose:
 - (a) application for registration of copyright or related rights is rejected by ARIPO;
 - (b) registration of copyright or related rights has been cancelled by ARIPO; or
 - (c) registration of copyright or related rights has been removed from the ARIPO database.
2. Procedure for appeal at ARIPO shall be prescribed in the regulations.
3. Any appeal against decisions made by a national competent authority shall be governed by the laws of the relevant contracting state.

Article 16

Establishment of the Board of Appeal

1. There is hereby established a Board of Appeal (hereinafter referred to as “the Board”)
2. The Board shall consist of five (5) members, with relevant knowledge and skills, two (2) of whom shall be copyright and related rights experts.
3. The members of the Board shall be appointed by the Administrative Council of ARIPO–
 - (a) for a period of three (3) years renewable for another term;
 - (b) from the Contracting States to this Protocol; and
 - (c) on such other terms and conditions as the Administrative Council may determine.
4. The functions of the Board are to:
 - (a) deal with any matter for appeal set out in article 16 paragraph 1;
 - (b) deal with any matter from an applicant who is dissatisfied with any aspect of the process of voluntary registration and notification of copyright or related rights under this Protocol;
 - (c) review any administrative decisions of ARIPO in relation to the implementation of the provisions of this Protocol at its own instance or brought to its attention by a third party;
 - (d) decide on any other matter related or incidental to the exercise of the Board’s powers.
5. Three members of the Board shall form a quorum.
6. The decisions of the Board shall be final.
7. The Board shall have power to make and adopt its own rules of procedure.

Article 17

Technical Assistance

ARIPO may provide technical assistance to contracting states to either put in place or enhance efficient registration systems at the national competent authority.

Article 18

Regulations

1. The Administrative Council shall make regulations for the implementation of this Protocol and may amend them as necessary.
2. Notwithstanding the generality of paragraph 1, the regulations shall *inter alia*:
 - (a) stipulate any administrative requirements or any details necessary for the implementation of the provisions of this Protocol;
 - (b) prescribe fees being charged under this Protocol;
 - (c) prescribe forms to meet the requirements under this Protocol.

Article 19

Membership and entry into force

1. Any State which is a member of ARIPO or any State to which membership of ARIPO is open, may become party to this Protocol by
 - (a) a signature followed by the deposit of an instrument of ratification; or
 - (b) deposit of an instrument of accession.
2. Instruments of ratification or accession shall be deposited with the Director General of ARIPO.
3. This Protocol shall come into force three (3) months after five (5) States have deposited their instruments of ratification or accession.
4. Any State which is not party to this Protocol upon its entry into force shall become bound by this Protocol three (3) months after the date on which such a State deposits its instrument of ratification or accession.
5. Any State which ratifies or accedes to this Protocol shall, by the instrument of ratification or accession, be deemed to have indicated its acceptance to be bound by the provisions of the Lusaka Agreement on the creation of the African Regional Intellectual Property Organization (ARIPO) and such State shall become a member of ARIPO on the date on which it deposits its instrument of ratification or accession to this Protocol.

Article 20

Denunciation of the Protocol

1. Any contracting state may denounce this Protocol by notification addressed to the Director General of ARIPO.
2. Denunciation shall take effect six (6) months after receipt of the said notification by the Director General of ARIPO and shall not affect any application filed prior to the expiration of the six (6) months period or registration or notification of copyright and related rights effected upon such an application.

Article 21
Amendment to the Protocol

1. This Protocol may be amended by the Council of Ministers at the instance of any contracting state or the Administrative Council.
2. Adoption of the amendments of any provision of this Protocol shall require a majority of two – thirds of the votes of all contracting states.

Article 22
Signature of the Protocol

1. The Protocol shall be signed in a single copy and shall be deposited with the Director General of ARIPO. It shall remain open for signature by Member States of ARIPO and other State members of the African Union, until February 28, 2022.
2. The Director General of ARIPO shall transmit certified copies of this Protocol to the contracting states, other Member States of ARIPO and the States to which membership of ARIPO is open in accordance with Article IV of the Lusaka Agreement on the creation of the African Regional Intellectual Property Organization (ARIPO).

