

UNESCO
WORLD ANTI PIRACY OBSERVATORY

ISRAEL

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I. Legislation

1. Copyright laws

Copyright is protected in Israel through international Agreements, the [Copyright Act of 2007](#); the Copyright Ordinance, sections 3b to 3e (all other sections of the Copyright Ordinance were repealed upon the entry into force of the Copyright Act, 2007); the [Performers and Broadcasters Rights Law of 1984](#); and other legislation related to enforcement of copyright or affecting copyright protection.

The [Copyright Act of 2007](#) passed the Israeli Parliament (the Knesset) on November 19, 2007, and was published in "Reshumot" (official gazette), 2007 Law Statutes of Israel, Issue 2199, at page 34 on Nov. 25, 2007. Pursuant to section 77 the Act came into force on May 25, 2008.

2. Other laws

The Customs Ordinance, section 200a. This section implements the TRIPS "Border Measures" requirements.

3. Latest developments and perspectives

Israel's copyright legislation has undergone a modernization program in recent years, including implementation of all TRIPS requirements and the establishment of severe penalties for copyright piracy. Accordingly, no further changes are foreseen in the near future.

4. Summary of legislation

- *Exclusive rights of the authors and of the owners of neighbouring rights*

Authors' rights, including sound recordings, are ensured under Israel's copyright regime. Rights of performers and broadcasters are protected as a neighboring right pursuant to the [Performers and Broadcasters Rights Law](#).

Copyright shall subsist in the following categories of works (Section 4 of the Copyright Act) – (i) Original works which are literary works, artistic works, dramatic works and musical works, fixed in any form; and, (ii) sound recordings.

Exclusive rights in copyright are set in section 11 of the Copyright Act which states as follows:

" Copyright in a work means the exclusive right to do with the work, or a substantial part thereof, one or more of the foregoing acts, in accordance with the kind of the work:

- (1) Reproduction as stated in section 12 – with respect to all categories of works;
- (2) Publication – in respect of a work not yet published;
- (3) Public performance as stated in section 13 – in respect of a literary work, dramatic work, musical work and sound recording;
- (4) Broadcasting as stated in section 14 – in respect of all kinds of works;
- (5) Making a work available to the public as stated in section 15 – in respect of all kinds of works;

(6) Making of a derivative work as stated in section 16 and the doing of any acts set forth in sections (1) to (5) above in respect of the aforesaid derivative work – with respect to a literary work, artistic work, dramatic work and musical work;

(7) Rental as stated in section 17 – in respect of a sound recording, cinematographic work and computer program."

In addition to the above mentioned economic rights, authors enjoy moral rights which are protected under sections 45 and 46 of the Copyright Act.

Performers' exclusive rights are set forth in section 2 of the Performers and Broadcasters Rights Law which states as follows:

"2. It shall be the right of a performer that the following acts shall not be done without his consent:

(1) fixation;

(2) reproduction of the fixation, unless both of the following apply:

(a) the fixation was made with the performer's consent; and;

(b) the reproduction is made for the same purpose for which the performer's consent was given.

(3) The broadcast of a performance, unless one of the following applies:

(a) the performance is broadcast by The Broadcasting Authority, Educational Television or Army Radio from a fixation or a reproduction thereof, made with the consent of the performer, and an agreement exists between the entity making the broadcast and the person who made the fixation concerning the right to use the performance;

(b) the broadcast is a secondary broadcast made with the consent of the entity making the original broadcast;

(4) The sale, lending, rental, distribution, importation or possession- for commercial purposes, of a fixation or a reproduction thereof, if the fixation or reproduction was made without the consent of the performer."

In addition, to above mentioned economic rights, performers enjoy moral rights which are set forth under section 4A of the Performers and Broadcasters Rights Law.

Performers are entitled to an equitable remuneration in respect of the public performance of their performances (Section 3A of the Performers and Broadcasters Rights Law).

Broadcasters' exclusive rights are set forth in section 4A1 of the Performers and Broadcasters Rights Law as follows:

"4A. A broadcaster has the right that the acts specified below shall only be done with his agreement:

(1) Fixation of the broadcast;

(2) Reproduction of a fixation of the broadcast;

(3) Broadcast of a fixation of a broadcast, or broadcast of a reproduction of such fixation;

(4) The sale, rental, distribution, importation or possession for commercial purposes, of a fixation of the broadcast or a reproduction of the said fixation;

(5) secondary broadcast of a broadcast, except where transmission of the secondary broadcast is required pursuant to either Paragraph 6[21](a) or Paragraph 6[49](4) of the Telecommunications Law (transmissions and broadcasts), 5742-1982."

- *Allowed use of a work without the permission of the owner of the copyright*

Chapter Four of the Copyright Act provides for limitations on the exclusive rights, including a closed list of "permitted uses" the doing of which does not require the consent of the copyright

holder. Examples of permitted uses include: Use of works in juridical or administrative proceedings; certain archival and library reproductions; incidental uses of a work, making of back up copies of computer programs. In addition, section 19 of the Act sets forth an open ended "fair use" provision subject to fulfillment of several conditions (Sections 18 to 32 of the Copyright Act).

Limitations to the exclusive rights of performers and broadcasters are set forth in sections 4 and 4C of the Performers and Broadcasters Rights Law.

Excluded from copyright protection are ideas, procedures and methods of operation, mathematical concepts, facts or data and news of the day; statutes, regulations, Knesset Protocols and judicial decisions of the courts or of any other government entities having judicial authority according to law; and "designs" as defined in the Patents and Designs Ordinance unless the design is not used, nor intended for use in industrial manufacture (Sections 5 to 7 of the Copyright Act).

- *Protection of the foreign works*

National treatment in Israel for foreign works is available in accordance with the copyright treaties to which Israel is a member, such as the Berne Convention and the TRIPS Agreement. Sections 8 to 10 of the Act, and secondary Orders and Regulations promulgated under, provide the basis for implementation of foreign agreements and hence the protection of foreign works.

- *Period of copyright protection*

Duration of copyright in Israel is set forth in Chapter Six of the Act. Most categories of works, including literary works, artistic works and photographs will be protected for the duration of the life of the author plus an additional period of 70 years. Copyright in sound recordings works created by the State shall subsist for a period of 50 years from the date of its making. Where applicable, the "law of the shorter term" will apply (Sections 38 to 44 of the Copyright Act).

Period of protection of neighboring rights is provided under sections 10 and 10A of the Performers and Broadcasters Rights Law.

- *Registration*

No registration is required in Israel for obtaining copyright or enforcing copyright, nor does the government maintain any type of registration mechanism.

5. International treaties

Israel is a member of the following International Convention and Treaties on Copyright and Related Rights:

- [Berne Convention on the Protection of Literary and Artistic Works](#), in force since March 24, 1950.
- [Universal Copyright Convention](#), accession on April 6, 1955 to UCC of 1952 and UCC of 1971.
- [Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations](#), in force since December 30, 2002.

- [WTO Agreement on Trade Related Aspects of Intellectual Property Rights](#), since April 21, 1995.
- [Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms](#), in force since May 1, 1978 6, 1995.

II. Measures and remedies

1. Copyright infringement

Infringement of copyright under the Copyright Act will occur when a person, who does in relation to a work, any of the acts defined as exclusive right in section 11 of the Copyright Act, or who authorizes another person to perform such acts, without the consent of the copyright holder, unless such act is permitted pursuant to the limitations on copyright set forth in Chapter Four of the Copyright Act. The cause of action for infringement is set forth in section 47 of the Act. The term "infringing copy" is defined at section 1 of the Act. The law of infringement is technologically neutral and applies equally to infringement occurring in hard copies and on the internet.

Acts infringing copyright are also defined under sections 48 to 51 of the Copyright Act.

2. Remedies to protect copyright holders

Remedies for the civil enforcement of copyright and neighboring rights include permanent and pre-trial injunctions, civil search and seizure orders for purposes of discovering and preserving infringing copies, monetary damages, statutory damages, accounting of the extent of an infringement and the destruction of infringing copies (Sections 53 to 60 of the Copyright Act and Sections 5, 8 and 9 of the Performers and Broadcasters Rights Law),.

Penalties for copyright piracy are severe and provide an effective deterrent to criminal activity. Copyright piracy is punishable by up to 5 years imprisonment and fines of up to two million shekels. There have been many convictions over the years and penalties range from fines to incarceration for extended periods of time (Section 62 of the Copyright Act).

Penalties for infringing neighboring rights are set forth in section 6 of the Performers and Broadcasters Rights Law.

3. Provisional measures

Pursuant to the laws of civil procedure and the Copyright Act a wide range of ex parte and inter partes provisional measures are available to prevent an impending infringement or continuation of an infringement or to preserve relevant evidence. Such pre trial measures include "Mareva" and "Anton Piller" orders that may be granted without the defendant being heard and are designed to enable assets to be frozen pending trial and or for the seizure and preservation of evidence prior to trial regardless of whether such evidence is being held by the defendant himself or third parties. Plaintiffs seeking such ex parte orders may be required to post a security bond to prevent abuse of such powers.

4. Penalties for copyright infringement

- *In civil cases*

Civil infringement of copyright is remedied through monetary damages and or injunctive relief. Penal law applies only with respect to acts of criminal infringement (Sections 53 and 56 of the Copyright Act and Sections 5 and 9 of the Performers and Broadcasters Rights Law).

- *For criminal offence in copyright cases*

Copyright piracy is punishable by up to 5 years imprisonment and fines of up to two million shekels (approximately US \$500,000 at current exchange rates). See sections 61 to 63 of the Copyright Act.

Penalties for infringing neighboring rights are set forth in section 6 of the Performers and Broadcasters Rights Law.

- *Seizure, confiscation, forfeiture and destruction of all infringing copies*

Section 61 of the Copyright Act provides the possibility for the court to order the destruction of all infringing copies. See also Sections 5 and 9 of the Performers and Broadcasters Rights Law for neighboring rights.

- *Publication of the judgment in newspapers or professional magazines*
- *Damages*

Pursuant to Chapter 8 of the Act, remedies available for copyright infringement include monetary damages, including lost profits, statutory damages and injunctive relief. Attorney's fees are available in all civil matters. See also Section 5 of the Performers and Broadcasters Rights Law for neighboring rights.

5. Requirements for foreign persons

No distinction is made between foreign and domestic copyright holders. Foreign persons may enforce copyrights in Israel in the same manner as can Israeli residents.

III. Enforcement

1. Enforcement authorities

a) Authorities responsible for enforcing the copyright law

Enforcement of civil copyright infringements is largely a matter for private law although the Customs Service, in cooperation with rights holders, plays an important role in the enforcement of civil (and criminal) copyright rights. Enforcement of criminal copyright infringements is within the responsibility of the police, customs authorities, tax authorities and public prosecutors.

b) Enforcement bodies entitled to act *ex-officio* in copyright infringement cases

Enforcement bodies can and do act *ex-officio* in the apprehension of criminal copyright infringers. Nevertheless, after an arrest or seizure has been made, active participation of the rights holder in the prosecution of a case is essential for securing a conviction. Without active cooperation from rights holder in providing proof of infringement criminal enforcement will be severely impeded.

c) Courts dealing with copyright cases

Copyright matters, criminal and civil, are handled by all courts in Israel. There are no specialized copyright courts.

2. Enforcement at the boarder

Section 200A of the Customs Ordinance and Section 65 of the Copyright Act provides for implementation of the TRIPS "Border Provisions".

- *Competent authority responsible for administering applications for copyright infringements at borders:*

The Customs Authority is the competent authority for administering applications for copyright infringements at the borders.

- *Security/equivalent assurance imposed in order to protect the defendant and prevent abuse:*

A rights holder seeking to have allegedly infringing material detained by the customs authority pending disposition of the matter will be required to provide a security assurance to prevent abuse of processes.

- *Notification to the importer and the copyright holder of the suspension of the release of the goods by the customs:*

The Customs Authorities maintain active and timely communications (and cooperation) with rights holders and their representatives as well as keeping importers timely informed or seizures of his imports or delays in their release due to copyright infringement allegations.

- *Time limit for the suspension of the goods by customs authorities:*

Goods may be held for up to 10 days in order to enable the rights holder to implement a court proceeding. This period may be extended by another 10 days in appropriate circumstances. Further detainment of goods by the Customs Authorities is possible pursuant to court order.

- *The competent authorities and the right to order the destruction or disposal of infringing goods:*

Section 61 of the Copyright Act provides the possibility for the competent authority to order the destruction of all infringing copies.

- *Customs authorities and copyright infringement cases*

Customs authorities are entitled to act ex-officio in copyright infringement cases

- *Law and provisions for a de minimis import exception*

The law provides for a de minimis import exception.

IV. Public Awareness

1. Awareness campaigns and actions

Awareness raising is undertaken by both public and private bodies.

2. Promotion of legal exploitation

3. Associations and organizations with awareness-raising purpose

Several rights holders' organizations operate in Israel as private organizations and these organizations have ready access to government bodies involved in intellectual property.

4. Best practices

V. Capacity-building

1. Training

The Ministry of Justice takes a leading role in providing on-going continuing legal education seminars for prosecutors, police, customs agents and government legal advisers. The judiciary too engages in specially designed annual IPR continuing legal education programs.

2. Establishment of specialized units and intersectoral groups

The police maintain specialized intellectual property enforcement units with advanced training in intellectual property matters. Similarly, customs officials who deal with intellectual property matters receive specialized training and regularly participate in continuing education programs and regular discussions and interaction with rights holders.

Government enforcement bodies regularly make themselves available to private rights' holders organizations in a continuing effort to exchange information and increase efficiency in enforcement mechanisms.

3. Best practices

The Business Software Alliance (BSA) annual piracy study regularly ranks Israel among the best countries for low piracy rates from amongst the countries which the BSA follows, including regularly ranking Israel ahead of many EU member states and OECD member countries.

http://global.bsa.org/idcglobalstudy2007/studies/summaryfindings_globalstudy07.pdf

VI. Other

- 1. TPM/DRM**
- 2. Licensing Schemes**
- 3. Optical Discs**
- 4. Hotlines**
- 5. Relevant contacts and links**