

UNESCO
WORLD ANTI PIRACY OBSERVATORY

TRINIDAD AND TOBAGO

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I. Legislation

1. Copyright laws

Copyright is protected in Trinidad and Tobago through international Agreements, the [Copyright Act Chapter 82:80 Act No. 8 of 1997 as amended by Act No. 18 of 2000 and Act No. 5 of 2008](#), as well as other legislation related to enforcement of copyright or affecting copyright protection.

The Copyright Act Chapter 82:80 Act No. 8 of 1997 became law on October 1, 1997. It was amended by the Act No. 18 of 2000 and Act No.5 of 2008.

The Act No. 18 of 2000 became law on June 15, 2000 and Act No. 5 of 2008 became law on May 1, 2008.

2. Other laws

Information not available

3. Latest developments and perspectives

Information not available

4. Summary of legislation

Trinidad and Tobago possesses a very modern copyright legislation in compliance with international standards.

Section 5 of the Copyright Act Chapter 82:80 outline all the original literary and artistic works that are subject to copyright protection. Trinidad and Tobago's copyright legislation provides protection for work of mas. Part VI of the Copyright Act Chapter 82:80 deals with ownership and assignment. Part IX addresses the Special Jurisdiction of the Court and Part X, the final provisions.

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

Section 8 of the Copyright Act lists the exclusive rights of the copyright owner. There are prescribed exceptions and limitations to those exclusive rights.

Exclusive Rights of the authors

a) Economic

Subject to the provisions of sections 9 to 17, the owner of copyright shall have the exclusive right to do, authorise, or prohibit the following acts in relation to the work:

- reproduction of the work;
- translation of the work;
- adaptation, arrangement or other transformation of the work;
- the first public distribution of the original and each copy of the work by sale, rental or otherwise;
- rental or public lending of the original or a copy of an audio-visual work, a work embodied in a sound recording, a computer program, a database or a musical

work in the form of notation, irrespective of the ownership of the original or copy concerned;

- importation of copies of the work, even where the imported copies were made with the authorisation of the owner of copyright;
- public display of the original or a copy of the work;
- public performance of the work;
- broadcasting of the work; or
- communication to the public of the work.

b) Moral

Moral rights are granted under section 18 of the Copyright Act.

The author has in particular the right:

- to have his name indicated prominently on the copies and in connection with any public use of his work, as far as practicable;
- to not have his name indicated on the copies and in connection with any public use of his work;
- to use a pseudonym; or
- to object to any distortion, mutilation or other modification of, or other derogatory action in relation to his work, which would be prejudicial to his honour or reputation.

None of the rights mentioned shall be transmissible during the life of the author, but the right to exercise any of those rights shall be transmissible by testamentary disposition or by operation of law following the death of the author.

The author may waive any of the moral rights mentioned in section 18 provided that such a waiver is in writing and clearly specifies the right or rights waived and the circumstances in which the waiver applies and provided further, that any waiver of the right under paragraph (d) of subsection (1) specifies the nature and extent of the modifications or other action in respect of which the right is waived, and following the death of the author, the natural person or legal entity upon whom or which the moral rights have devolved shall have the right to waive the said rights.

Independently of his copyright and even where he is no longer the owner of copyright, the performer shall, as regards his live aural performances and performances fixed in sound recordings, have the right: -

- (a) to claim to be identified as the performer of his performances, except where omission is dictated by the manner of the use of the performance; and
- (b) to object to any distortion, mutilation or other modification of his performances that would be prejudicial to his reputation.

Nothing in this section shall be construed to deprive the performer of the right to agree by contract, on terms and conditions more favourable for him in respect of his performance.

Exclusive right of the owners of neighbouring rights

Neighbouring rights are covered under Part V of the Copyright Act.

Subject to the provisions of section 25 of the Trinidad and Tobago's Copyright Act, a performer shall have the exclusive right to do, authorise or prohibit any of the following acts (section 21):

- (a) the broadcasting or other communication to the public of his performance except where the broadcasting or the other communication:-
 - (i) is made from a fixation of the performance, other than a fixation made under the terms of section 25; or
 - (ii) is a rebroadcasting made or authorised by the organisation initially broadcasting the performance;
- (b) the fixation of his unfixed performance; or
- (c) the reproduction of a fixation of his performance in any manner or form;
- (d) the distribution to the public, by sale or other transfer of ownership, of a fixation of his performance or copies thereof, that have not already been subject to a distribution authorized by the performer;
- (e) the rental to the public of a fixation of his performance or copies thereof, for the purposes of direct or indirect commercial advantage, irrespective of the ownership of the original or copy rented; and
- (f) the making available to the public of his fixed performance through an electronic retrieval system.

Under section 22, a producer of a sound recording shall have the exclusive right to do, authorize or prohibit any of the following acts:-

- (a) direct or indirect reproduction of the sound recording in any manner or form;
- (b) importation of copies of the sound recording, even where the imported copies were made with the authorisation of the producer;
- (c) the first public distribution of the original or a copy of the sound recording by sale or otherwise;
- (d) adaptation or other transformation of the sound recording;
- (e) rental to the public of the original or a copy of the sound recording, for the purposes of direct or indirect commercial advantage, irrespective of the ownership of the original or copy rented;
- (f) the making available to the public of the sound recording through an electronic retrieval system

Under section 24, a broadcasting organization shall have the exclusive right to do, authorize or prohibit any of the following acts:-

- (a) the rebroadcasting of its broadcast;
- (b) the communication to the public of its broadcast;
- (c) the fixation of its broadcast;
- (d) the reproduction of a fixation of its broadcast.

- *Exceptions and limitations to copyright*

In general the Copyright Act allows for use of a work without the permission of the owner under limitations and exceptions (sections 9, 10, 11, 12, 13, 14, 15, 16, 17 and 25).

Section 25 provides for limitations to neighboring rights. It states that copyright shall not apply where the acts referred to in sections 21 to 24 are related to:-

- (a) the use by a natural person exclusively for his own personal purposes;
- (b) using short excerpts for reporting current events to the extent justified by the purpose of providing current information;
- (c) use solely for the purpose of face-to-face teaching activities or for scientific research;
- (d) cases where, under Part II, a work can be used without the authorization of the owner of copyright.

The permission under paragraph (a) shall not extend to reproduction of any performance, sound recording or broadcast in cases where reproduction would conflict with a normal exploitation of the performance, sound recording or broadcast or would otherwise unreasonably prejudice the legitimate interests of the owner of neighbouring rights.

Sections 9, 10, 11, 12, 13, 14, 15, 16 and 17 of the Copyright Act provides for limitations to copyright. These exceptions apply in the following cases provided specific conditions are met:

- for personal purposes
- private reproduction
- quotation
- reproduction for teaching
- reprographic reproduction by libraries and archives
- broadcasting and other informatory communication to the public
- reproduction and adaptation of computer programmes
- Importation for personal purposes.

Exceptions to Copyright are set forth in Section 7 of the Copyright Act.

- *Protection of foreign works*

Protections of foreign works are set forth in sections 54 and 55 of the Copyright Act.

- *Period of copyright protection*

Section 19 of the Copyright Act outlines the terms of copyright protection. The general term is the life of the author plus fifty years after his death.

The term of protection for neighboring rights is set forth in Sections 21, 22 and 24 of the Copyright Act.

- *Registration*

Registration is not required for copyright protection. Pursuant to the Berne Convention, copyright protection is automatic upon the creation of an original literary or artistic work. There are no formalities for copyright protection in Trinidad and Tobago. According to section 5 of the Copyright Act, works shall be protected by the sole fact of their creation and irrespective of their mode or form of expression, as well as of their content, quality and purpose.

5. International treaties

Trinidad and Tobago 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 August 16, 1988.
- [Universal Copyright Convention](#), accession on May 19, 1988 to UCC of 1952 and UCC of 1971.
- [WTO Agreement on Trade Related Aspects of Intellectual Property Rights](#) (TRIPS), since March 1, 1995.
- [WIPO Copyright Treaty](#) (WCT), in force since November 28, 2008.
- [WIPO Performances and Phonograms Treaty](#) (WPPT), in force since November 28, 2008.
- [Brussels Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite](#), in force since November 1, 1996.
- [Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms](#), in force since October 1, 1988.

II. Measures and remedies

1. Copyright infringement

The copyright Act provides a definition of infringement (section 3).
infringing copies” means—

- (i) an article, the making of which constitutes an infringement of the copyright work, performance, sound recording or broadcast;
- (ii) an article, which if it had been imported or is proposed to be imported into Trinidad and Tobago and its making in Trinidad and Tobago would have constituted an infringement of the copyright in the work in question or infringement of neighbouring rights in the performance, sound recording or broadcast or a breach of a licence agreement relating to that work, performance, sound recording or broadcast; and
- (iii) any other copy falling to be treated as an infringing copy, it not having been made in accordance with the provisions of sections 9 to 14.

According to section 34A, the following acts shall constitute infringements of copyright and neighbouring rights:

- (a) the manufacture or importation for sale or rental of any device or means, specifically designed or adapted to circumvent any device or means intended to prevent or restrict reproduction of a work or to impair the quality of copies made (the latter device or means hereinafter referred to as “copy-protection or copy-management device or means”); and
- (b) the manufacture or importation for sale or rental of any device or means that is susceptible to enable or assist the reception of an encrypted programme, which is broadcast or otherwise communicated to the public, including by satellite, by those who are not entitled to receive the programme.

More acts are considered to be infringement of Copyright and Neighboring Rights. These are set forth in Articles 34 and 34B of the Copyright Act.

2. Remedies to protect copyright holders

Civil Remedies

Part VII of the Copyright Act (sections 30 to 40) outlines the civil remedies in relation to copyright infringement.

In civil proceedings, the Court has the power to order the impounding of copies, the forfeiture of copies, the seizure and destruction of all copies of works, the payment of damages and to order an account of the infringer's profits.

Under section 38 (1) (e) and (f) the Court has the authority to award damages taking into account the pecuniary and non pecuniary loss suffered by the copyright owner as well as to order an account of the infringer's profits attributable to the infringement. In civil proceedings, the party that loses the case is required to pay the attorney's fees of the successful party.

Criminal Remedies

Part VIII of the Copyright Act (sections 41 to 48) outlines the criminal offences relative to copyright infringement.

In criminal proceedings under section 41 of the Copyright Act, the maximum penalty is two hundred and fifty thousand dollars and ten years imprisonment.

The Court has the power to order the destruction of the infringing copies, articles, apparatus, implements or devices or that they be delivered up to the copyright owner or to such other person as the Magistrate may direct.

3. Provisional measures

In civil proceedings, the Court has the power to order the impounding of copies, the forfeiture of copies, the seizure and destruction of all copies of works, the payment of damages and to order an account of the infringer's profits.

The Court has the power to order the destruction of the infringing copies, articles, apparatus, implements or devices or that they be delivered up to the copyright owner or to such other person as the Magistrate may direct.

Under civil proceedings, an interim injunction may be obtained to prevent the continuation of an offence. Such an injunction may be obtained provisionally in the absence of the defendant; however, invariably the defendant is given an opportunity to be heard at which time the injunction may be set aside if it is found to be unwarranted.

Section 38 (3) of the Copyright Act provides that where there is a danger that implements may be used to commit or continue to commit acts of infringement, the Court shall have the authority, whenever and to the extent that it is reasonable, to order their destruction or other reasonable disposition outside the channels of commerce in such a manner as to minimise the risks of further infringements, including surrender to the owner of the right.

4. Penalties for copyright infringement

- In civil cases

The civil remedies available to a copyright holder are cited under section 38 of the Copyright Act. In civil proceedings, the Court has the power to order the impounding of copies, the forfeiture of copies, the seizure and destruction of all copies of works, the payment of damages and to order an account of the infringer's profits.

- For criminal offence in copyright cases

In criminal proceedings under section 41 of the Copyright Act, the maximum penalty is two hundred and fifty thousand dollars and ten years imprisonment. The Court has the power to order the destruction of the infringing copies, articles, apparatus, implements or devices or that they be delivered up to the copyright owner or to such other person as the Magistrate may direct.

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

The Court, in both civil and criminal cases, may order the seizure, forfeiture and/or the destruction of all infringing copies and all equipments or devices used in the manufacture of the infringing copies.

The penalties do not include the publication of the judgment in newspapers or professional magazines. Invariably, the judgments are reported in the newspapers by the journalists. Additionally, copies of written judgments may be obtained from the High Court library.

Under section 38(1)(e) and (f) the Court has the authority to award damages taking into account the pecuniary and non pecuniary loss suffered by the copyright owner as well as to order an account of the infringer's profits attributable to the infringement. In civil proceedings, the party that loses the case is required to pay the attorney's fees of the successful party.

5. Requirements for foreign persons

Foreign persons are not required to obtain any special approvals or present any special documentation in order to gain access to national courts, customs officials or police officials to obtain enforcement of their copyright in Trinidad and Tobago.

However, if the foreign person is represented by an Attorney-at-Law, the Attorney-at-Law must be admitted to practice law in Trinidad and Tobago. Section 32A of the Copyright Act provides that a non-exclusive licensee may bring an action for infringement of copyright provided specific conditions are met.

III. Enforcement

1. Enforcement authorities

a) Authorities responsible for enforcing the copyright law

The Office of the Director of Public Prosecutions, the Police, the Judiciary and the Customs and Excise Division are the competent authorities responsible for enforcing copyright law.

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

The Police officers may act ex officio under section 47 of the Copyright Act.

c) Courts dealing with copyright cases

There are no specialized courts to deal with Intellectual Property Crimes in Trinidad and Tobago. Matters are dealt with at the Magistrates Courts and at the Supreme Court of Judicature of Trinidad and Tobago. Magistrates Courts are located in municipal districts throughout Trinidad and Tobago. The Supreme Court of Judicature is located in Port of Spain and San Fernando.

2. Enforcement at the border

The Customs and Excise Division is responsible for dealing with copyright infringements at border points of entry into Trinidad and Tobago.

If a copyright holder suspects that his goods will be imported illegally into Trinidad and Tobago, under section 48(1) of the Copyright Act he is authorized to send a notice in writing to the Comptroller of Customs and Excise to treat his goods as prohibited goods.

Under Section 8 of the Copyright (Customs) Regulations, the Comptroller requires security whether by way of bond, deposit of a sum of money or otherwise to be provided by the copyright holder.

The importer and the copyright holder are notified in a timely fashion of the suspension of the release of the goods by Customs.

There is no time limit for the suspension of the release of the goods.

The competent authorities may order the destruction or disposal of the infringing goods.

Customs officials are not entitled to act ex-officio in copyright cases but are expected to act in tandem with the copyright holder or someone who has rights on behalf of the copyright holder.

Section 15 of the Copyright Act Chapter provides that an individual may import up to three copies for his private personal use without the authorization of the right owner.

IV. Public Awareness

1. Awareness campaigns and actions

Information not available

2. Promotion of legal exploitation

Information not available

3. Associations and organizations with awareness-raising purpose

Information not available

4. Best practices

The Intellectual Property Office of the Ministry of Legal Affairs has created several anti-piracy radio and television advertisements.

V. Capacity-building

1. Training

The Intellectual Property Office of the Ministry of Legal Affairs conducts public education programmes on copyright and regularly issues anti-piracy messages. The officers of the Intellectual Property Office visit schools, businesses and associations to educate/inform about copyright infringement. The Intellectual Property Office also meets frequently with the police, customs and other interest groups to develop strategies and mechanisms to aid in the speedy arrest and prosecution of copyright crimes.

2. Establishment of specialized units and intersectoral groups

On September 3, 2008, instruments of appointment were delivered to a Cabinet-appointed Committee established to make recommendations for the regularization of the Home Video Club Industry.

In 2008, the U.S. Department of Justice's Office of Overseas Prosecutorial, Development, Assistance and Training in conjunction with law enforcement officials from the Office of the Director of Public Prosecutions, the Customs and Excise Division and the Police and other stakeholders, created a Law Enforcement Best Practices Handbook to Combat Piracy of Intellectual Property.

Private collective management organizations such as the Copyright Music Organization of Trinidad and Tobago usually host seminars relative to copyright.

3. Best practices

In 2008, the U.S. Department of Justice's Office of Overseas Prosecutorial, Development, Assistance and Training in conjunction with law enforcement officials from the Office of the

Director of Public Prosecutions, the Customs and Excise Division and the Police and other stakeholders, created a Law Enforcement Best Practices Handbook to Combat Piracy of Intellectual Property.

The Copyright Music Organisation of Trinidad and Tobago has secured several convictions of piracy offences. Further details may be obtained at the following website: www.cott.org.tt.

VI. Other

1. TPM/DRM

Sections 34A and 34B of the Copyright Act consider as infringements the alteration or removal of technological protection measures and electronic rights management information.

2. Licensing schemes

Information not available

3. Optical discs

Information not available

4. Hotlines

Information not available

5. Contact details

Information not available