

Frequently Asked Questions (FAQ) on Intellectual Property System

Provided by: The Intellectual Property Division, Ministry of Economic Affairs, Royal Government of Bhutan. For details, please visit <http://www.ipbhutan.gov.bt/>

Disclaimer

The answers given below to the probable questions are for the purpose of guiding public which cannot be quoted in any legal proceedings and will have no legal purpose. The users are advised to refer the provisions of the Industrial Property Act of the Kingdom of Bhutan, 2001 and The Industrial Property Rules, 2001.

TRADEMARK FAQ

1. What is a trademark?

The term “trademark” is often used to refer to both trademarks and service marks. Trademark means any visible sign capable of distinguishing the goods or services of an enterprise;

A trademark can be a word, phrase, symbol or design, or a combination thereof, that identifies and distinguishes the source of the goods/services of one party from those of others.

2. What is a collective mark?

A “collective mark” is a mark used by members of a cooperative, an association, or other collective group or organization. There are two basic types of collective marks:

1. A collective trademark, which is a mark adopted by a collective group for use by its members who use the mark to identify their goods or services and to distinguish such members’ good or services from the goods or services of nonmembers; and
2. A collective membership mark, which only serves to indicate membership in the collective group.

3. What does the symbolsTMand [®]stand for?

The symbol TM is used as a cautionary notice to claim an unregistered/pending trademark. The symbol [®] is used to provide notice that the trademark has been registered with a national trademark office. The proper manner to display these symbols is immediately following the mark, and is commonly in superscript style but is not legally required.

4. What are the functions of trademark?

- Identifies source of goods/services.
- Signifies that the goods bearing a particular trademark come from one source.
- Indicate a particular standard of quality.
- Facilitate marketing of goods through advertising and sales.
- Symbolizes the goodwill of the owner of the mark.
- Protects the public from confusion and deception.
- Adds value to business.

5. Why should a trademark be registered?

Although registration of trademark is voluntary, registration would provide trademark owner(s) the following advantages:

- Certificate of registration can be used as a *prima facie* evidence in the event of litigation.
- Registered trademark will appear in search reports of the office, discouraging others from proceeding with the registration of the same or similar trademark.
- Public notice of your claim of ownership of the trademark.
- Provide basis for registering in other countries.
- Owner(s) obtains the right to put symbol[®], after the trademark, alerting others to the registration and preventing the defense of innocent infringement.
- Provides official notice to others that a trademark is already taken; consequently, a company that later adopts a confusingly similar trademark cannot claim ignorance of it

6. What kinds of trademarks cannot be registered?

- Words that are clearly descriptive (e.g. "delicious" ice cream)

- Terms or symbols that are confusingly similar to an existing trademark,
- Terms or symbols that are prohibited under the *Industrial Property Act of Kingdom of Bhutan*.

7. How do I register a trademark?

An application must be filed with the Intellectual Property Division either in person and/or through the Industrial Property Agents.

- When an applicant's ordinary residence or principal place of business is outside Bhutan, the application must be filed through an Industrial Property Agent practicing in Bhutan.
- When an applicant's ordinary residence or principal place of business is within Bhutan, an application can be filed directly in person, or may be represented by an Industrial Property Agent practicing in Bhutan. An agent may help to avoid many potential pitfalls in filing your trademarks.

8. Do I have to search for similar trademarks before filing an application?

- It is recommended to conduct a search before filing your application. The Intellectual Property Division allows you to search your trademark prior to filing; you or your representative can come to our office and search after paying the prescribed fee.
- However, it must be noted that the search does not guarantee the mark to be registered as there can be objections on similar or other grounds. It may also happen that a similar mark could have been filed after you have done your search.

9. Does registration in one country protect my rights in other countries?

- No, the effects of registration are limited to the country concerned only. You will have to register your trademark separately in every country that you wish to seek protection. The registration process and fees vary from one country to another.
- However, international registrations can be acquired through the Madrid system to which Bhutan is a member. An applicant can file for international registration having effect in some or all of the other countries of the Madrid Union with a single application to

Intellectual Property Division. The list of (*Madrid Union memberslink*).

10. Where can I find trademark forms and fee schedules?

Trademarks Forms and Schedule of Fees can be downloaded from www.ipbhutan.gov.bt. The printed forms can also be obtained from the Trademark Registry, Intellectual Property Division.

11. How are the goods/services in a trademark classified?

Trademarks are classified according to NICE classification for International Classification of goods and services initiated by WIPO (*10th edition of NICE classification link*).

12. How long will it take to process a trademark application?

The length of processing time depends on whether the application is procedurally in order and whether the trademark faces objections and oppositions. In the absence of any such, the application will be registered within 4-6 months from the date of filing. However, it should be noted that rights for registration of a trademark accrue from the date of filing.

13. What is the validity of trademark registration?

The trademark registration is valid up to ten years and can be renewed after every ten years.

14. When should I renew a trademark registration?

- An applicant should renew during six months prior to the expiry of the registration.
- A grace period of six months after the expiry of the registration is provided to renew along with a late fee.
- Non-renewal within the stipulated time shall lead to expiration of the registration.

15. Will there be any invalidation or removal of a registered trademark?

- A registered trademark may be invalidated with a request from any aggrieved person for not fulfilling the provisions of the *Industrial Property Act of Kingdom of Bhutan*.
- A registered trademark may also be removed with a request from any aggrieved person on the grounds of non-use for three consecutive years.

16. Will the Intellectual Property Division stop someone from infringing my registered trademark?

The role of IPD is to grant the legal right to the owner of trademark by providing Certificate of Registration. The Division also publicizes the trademarks with the objective to promote and sensitize the general public on the ownership to prevent infringement/violation. In the event of litigation the Certification of Registration should be used as a proof of ownership. However, the enforcement of the rights does not fall under the purview of the Division, hence, the matter should be dealt before the Court of Law by the owner of the trademarks.

INDUSTRIAL DESIGN FAQ

Q1. What is an industrial design?

An industrial design is the features of shape, configuration, pattern or ornament (or any combination of these) applied to a finished product such as furniture, packaging (bottles, containers, and boxes), handicraft, textile, garment, jewellery, tool, cutlery etc.

Q2. How do I protect my industrial designs?

Industrial designs are protected by registering with the IPD. Registration provides exclusive right to your industrial design.

By registering, you can make a legal claim of ownership, and you have legal protection to prevent others from unauthorized copying or imitation (infringement) or against acts which make it likely that infringement will occur.

Q4. What are the conditions for registration of an industrial design?

An industrial design must be **NEW / NOVEL**. An industrial design is new if it has not been disclosed to public by publication or by use or in any other way before registration.(rationale-grace period)

Q5. What cannot be registered or protected by industrial design?

Under the *Industrial Property Act of Bhutan* you cannot register the following:

- an idea
- the function / technical features of a product;
- the materials used in construction of a product ; and
- Industrial designs which are considered to be contrary to public order or morality.

Q7. Why protect industrial designs?

Industrial design makes a product **attractive** and **appealing**, and, they add to the **commercial value** of a product and **increase its marketability**.

When an industrial design is registered and protected, this helps to ensure a fair return on investment. An effective system of protection also benefits **consumers and the public at large**, by promoting fair competition and honest trade practices.

Protecting industrial designs helps **economic development**, by encouraging creativity in the industrial and manufacturing sectors and contributes to the expansion of commercial activities and the export of national products.

Q8. What is the duration of protection?

Once an industrial design is registered, the term of protection is five years, and is renewable for a further two consecutive terms of 5 years each. The total duration of protection is 15 years.

Q9. When should you file an industrial design application?

Filing of an industrial design should be made as close to the date of creation of your design or before the product is disclosed to the public or offered for sale or use anywhere in the world. If your design has been published, you must file for registration within 12 months of publication or disclosure.

Q10. If I register my industrial design in Bhutan, am I protected in other countries?

An industrial design registered in Bhutan is only protected in Bhutan. Protection in other countries can be obtained by filing application in each country separately. However, to protect your novelty in other countries, application for registration will have to be filed within 12 months from the date of first filing in any of the Paris Convention member countries. Bhutan is a member to Paris Convention since 2000.

Q11. How long does it take to get the registration/protection?

After filing your design application, it takes maximum of four to six months to grant the registration/protection provided there is no opposition or objection to your design.

Q12. Are industrial designs that are filed with IPD open to public?

It is mandatory to publish the industrial designs that are filed with IPD for opposition/objection. The publication is done through various mediums such as official bulletin, websites, television and print media.

Q13. Who can apply for design registration?

Creator(s)/owner(s)/of an industrial design may apply for registration.

The creator(s)/owner(s) can also authorize Registered Industrial Property Agent to apply for registration on their behalf.

Where an applicant's ordinary residence or principal place of business is outside Bhutan, the applicant must appoint a Registered Industrial Property Agent.

Q14. Who owns industrial designs?

- Creator(s) of industrial designs
- An individual/legal entity **hires a designer under a contract** to create / develop a design
- **Joint owners** which means two or more persons working together to create/develop designs.
- Someone who **acquired ownership** of the design,
- An **employer/company** when the creator is employee who has created/developed a design as part of his/her employment

Q14. If I see a good industrial design outside Bhutan and it does not appear to be on the market in Bhutan, can I register that industrial design under my name here?

Yes you can register such industrial design if you have acquired ownership through license or assignment or authorization.

Q15. Would the Intellectual Property Division stop someone else from infringing my design?

The role of IPD is to grant the legal right to the creator/owner of industrial designs by providing Certificate of Registration. The Division also publicizes the industrial design with the objective to promote and sensitize the general public on the ownership to prevent infringement/violation. In the event of litigation the Certification of Registration should be used as a proof of ownership. However, the enforcement of the rights does not fall under the purview of the Division, hence, the matter should be dealt before the Court of Law by the creator/owner of the design.

Q17. How to file an application for the registration of an industrial design?

Filing an application to register an industrial design requires:-

- A completed application form (Form - ID1 “Application for Registration of Industrial Design) in English;
- One copy of representation of the product to which the design is applied (drawings or photograph);
- A statement of novelty in respect of the industrial designs to which the design is applied; and
- Payment, in full, of the appropriate filing fee. For more information on fee structure please refer to the Schedule of Fee. (Hyperlinks where appropriate)

Q18. Where to lodge your application?

All application for the registration of industrial design must be lodged at the Intellectual Property Division.

PATENT FAQ

1. What is a Patent?

A Patent is an Industrial Property title granted to protect an invention. The Industrial Property Act of the Kingdom of Bhutan, 2001 states “**Invention**” as an idea of an inventor which permits in practice the solution to a specific problem in the field of technology. An invention may be, or may relate to, a product or a process.

2. What does a Patent do?

A patent provides protection for the invention to the owner of the patent. The protection is granted for a limited period, generally 20 years upon payment of annual maintenance fees.

3. Why are Patents necessary?

Patents provide incentives to individuals by offering them recognition for their creativity and material reward for their marketable inventions. These incentives encourage innovation, which assures that the quality of human life is continuously enhanced.

4. Who can apply for a Patent?

Anyone who has new invention can apply for a patent in their national Intellectual Property Office.

5. Is patent application mandatory?

In order to have patent protection, you must apply for and receive a patent. Since patent laws are national, you must obtain patent protection in each country in which you want protection.

6. What kind of invention is patentable?

As per Industrial Property Act of Kingdom of Bhutan, 2001, an invention is patentable if it is **new**, involves an **inventive step** and is **industrially applicable**.

An invention is **new** if it not anticipated by prior art. Prior art shall consist of everything disclosed to the public, anywhere in the world, by publication in tangible form or by oral disclosure, by use or in any other way, prior to the filing or, where appropriate, the priority date, of the application claiming the invention.

An invention shall be considered as involving as an **inventive step** if, having regard to the prior art relevant to the application claiming the invention, it would not have been obvious to a person having ordinary skill in the art.

An invention shall be considered **industrially applicable** if it can be made or used in any kind of industry. Industry shall cover, in particular, handicraft, agriculture, fishery and services.

7. What are excluded from patent protection?

The following are excluded from patent protection:

- (i) discoveries, scientific theories and mathematical methods;
- (ii) schemes, rules or methods for doing business, performing purely mental acts or playing games;
- (iii) methods for treatment of the human or animal body by surgery or therapy, as well as diagnostic methods practiced on the human or animal body; this shall not apply to products for use in any of those methods.

8. My invention was featured in the media and was also published in a scientific journal. Can I still apply for a patent?

Public disclosure of your invention may destroy the novelty of your invention. However, the disclosure to the public of your invention shall not be taken into consideration if it occurred

within months preceding the filing date or, where applicable, the priority date of your application.

9. My invention was displayed in an exhibition. Can I still apply for a Patent for the same invention?

If the invention was displayed in an exhibition, the disclosure will be disregarded if you:

- (a) state, on filing the patent application, that the invention has been so displayed,
- (b) furnish with the application or one month of filing the application, full particulars of disclosure; where the disclosure was made at an exhibition,
- (c) file within the same period, a duly authenticated certificate issued by the authority responsible for the exhibition containing particulars of the exhibition and stating that the invention was in fact exhibited there.

10. How do I apply for a patent in Bhutan?

Before you apply, consult the “**Office Practice and Procedure Manual for Patent Registration System, 2012**” which has been uploaded on the office website (www.ipbhutan.gov.bt) for insight into the process.

Once you are ready, you can apply for your patent in Bhutan by submitting a patent application (in three copies) with the appropriate fee to:

The Registrar of Patents
Patent Registry
Intellectual Property Division
Ministry of Economic Affairs
Thimphu Bhutan

11. Can a non-resident applicant file a patent application in Bhutan?

Yes, a non-resident can file a patent application in Bhutan but he/she should be represented by a Patent agent.

12. What if the applicant is not the inventor?

When the applicant is not the inventor, the request shall be accompanied by a statement justifying the applicant's right to the patent. If the applicant is represented by an agent, the request shall indicate and state the agent's name and address.

13. Is there any difference in the amount of fees to be paid by an individual or a legal entity for filing a patent application?

Yes, the application filing fees for an individual person (natural person) is Nu.1, 000/- and for a legal entity other than individual is Nu.4, 000/- up to 10 claims and 30 pages. However, in case, the number of pages exceed beyond 30, then natural person has to pay Nu.100/- for each additional page and a legal entity has to pay Nu.400/- per page. Similarly if the number of claims exceed beyond 10, then natural person has to pay Nu.200/- for each additional claim and a legal entity has to pay Nu.800/- for each additional claim.

14. What is included in a complete patent application?

A complete application includes:

- A Request (Form No. **PT 1**) in three copies;
- A description;
- Claim or claims to the invention;
- Any drawings mentioned in the description; and
- Abstract of the invention.

15. What is the time frame to complete an application?

In all cases of incomplete applications, the office will make every effort to inform the applicant for non-compliance by means of a notification letter specifying the required corrections. The corrections should be submitted within two months from the date of the notification.

16. Is it possible to extend time for the submission of corrections?

Yes. An applicant can request for the extension of time on Form No. **PT 11** along with a fee as prescribed in the Schedule of Fees, before the expiry of the required time limit.

17. What are the consequences of not submitting the required corrections within the given timeframe?

If the corrections are not submitted within the given timeframe, the patent application will be deemed as not filed or rejected. In case an extension of time is requested and the applicant fails to submit the required correction within that timeframe, the application will be deemed as not filed or rejected.

18. Can I have more than one invention in a patent application?

No, you can have only one invention in a patent application.

19. What is a divisional application?

Where an original patent application describes and claims more than one invention, the applicant must limit the claims to one invention only and any other invention described may be made the subject of a separate divisional application.

20. Will a divisional application have a new filing date?

Divisional applications will retain the filing date of the original applications and must be filed before the issue of a patent on the original application.

21. What is a priority claim?

Bhutan, like many countries, allows priority claims to be made in a patent application. If an applicant has an application filed earlier in a Paris Convention country (other than Bhutan), he may claim priority from this first-filed application, provided he files in Bhutan within 12 months from the date of the first filing. Similarly, an application which is first filed in Bhutan can be used to claim priority in a corresponding application filed in a Paris Convention country, provided that the corresponding application is filed within 12 months from the date of filing in Bhutan.

22. What information must be provided in order to request priority?

A request for priority can be made in the request form, Form No. **PT 1**. You must provide the following information related to each priority document:

- application number,
- the filing date,
- filing office,
- the country of filing,
- status of the application and
- the International Patent Classification.

23. What happens to my patent application after it has been filed?

The office will carry out a formality examination of your application and accord a filing date. A Substantive Search and Examination to assess the novelty, inventive step and industrial applicability of your patent application will be carried out. If your invention fulfills all these criteria for patentability, a Patent will be granted to your invention and published in our official gazette.

24. Can I withdraw my application after filing?

You can withdraw your application anytime during its pendency by submitting the request in writing.

25. How long does it take to grant a Patent?

The Registrar will, whenever possible, reach a final decision on the application not later than two years after the commencement of the Substantive Search and Examination.

26. What are the rights conferred by a Patent?

The exploitation of the patented invention in Bhutan by persons other than the owner of the patent shall require the latter's agreement.

Exploitation of a patented invention means any of the following acts:

- a) when the patent has been granted in respect of a product:
 - i. making, using, offering for sale, selling or importing for these purposes that product;
 - ii. stocking such product for the purposes of offering for sale, selling or using;
- b) when the patent has been granted in respect of a process:
 - i. using the process;
 - ii. doing any of the acts referred to in paragraph (a) in respect of a product obtained directly by means of the process.

27. Are there any limitations to the rights conferred by a patent?

Yes. The rights under the patent shall not extend:

- i. To acts in respect of articles which have been put on the market in Bhutan by the owner of the patent or with his consent; or

- ii. To the use of articles on aircraft, land vehicles or vessels of other countries which temporarily or accidentally enter the airspace, territory or waters of Bhutan; or
- iii. To acts done only for experimental purposes relating to a patented invention; or
- iv. To acts performed by any person who in good faith, before the filing or, where priority is claimed, the priority date of the application on which the patent is granted, was using the invention or was making effective and serious preparations for such use in Bhutan.

28. Who has the right to a Patent?

The right to a Patent shall belong to the inventor.

29. Who has the right to the Patent if two or more persons have jointly made an invention?

If two or more persons have jointly made an invention, the right to the patent shall belong to them jointly.

30. Who has the right to a patent when an invention is made in execution of an employment contract?

When an invention is made in execution of an employment contract, the right to the patent shall belong, in the absence of contractual provisions to the contrary, to the employer.

31. When does a patent expire?

A patent will expire twenty years from the filing date of the application for the patent.

32. What should I do in order to maintain my Patent?

In order to maintain Patent, an annual fee as prescribed in the Schedule of Fees shall be paid in advance to the Registrar for each year, starting one year after the filing date of the application.

33. Will my Patent lapse if I am not able to pay the maintenance fee before the deadline?

A period of grace of six months will be allowed for the late payment of the annual fee on payment of the prescribed surcharge. Your patent application will be deemed to have been withdrawn or your patent shall lapse if you do not pay the maintenance fee before the deadline of this grace period.

34. Can I assign my rights to someone else or license it out?

Yes. As with other forms of Intellectual Property, a Patent is a right that can be assigned or licensed to another party. An application to register such transactions with the Registry of Patent shall be made on Form No. **PT-9** with a fee as prescribed in the Schedule of Fees.

35.How do I apply to invalidate a patent?

Any person may apply to invalidate a Patent for an invention on any of the grounds set out in Section 16 of the Industrial Property Act of the Kingdom of Bhutan, 2001. The request shall be made to the Registrar on Form No. **PT 7** along with a fee as prescribed in the Schedule of Fees.

COPYRIGHT FAQ

Frequently Asked Question on Copyright and Related Rights

1. What is copyright?

- They are certain exclusive rights of use and control granted to authors and creators over their original works.
- Copyright Act gives the author of a work a bundle of exclusive rights over his work for a limited period of time. These rights enable him to control the use of his work in a number of ways and to receive remuneration.
- The word `original' means that the work should be completely new and it should not be a copied work from some other already existing works.

2. What does Copyright protect?

The Copyright Act, 2001 provides protection for the literary and artistic works;

For further details Refer **Copyright Act, 2001** Part II- Copyright works

3. What rights does copyright protection provide?

Copyright provides two sets of rights namely, economic rights and moral rights.

Economic Rights give the owners the exclusive right to;

- a. reproduction of the work;
- b. translation of the work;

- c. 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;
 - d. rental or public lending of the original or a copy of an audiovisual work, a work embodied in a sound recording, a computer program, a data base or a musical work in graphic form, irrespective of the ownership of the original or the copy which is the subject of the rental or public lending;
 - e. importation of copies of the work, even where the imported copies were made with the authorization of the author or other owner of copyright;
 - f. public display of the original or a copy of the work;
 - g. public performance of the work;
 - h. broadcasting of the work;
 - i. Other communication to the public of the work.
- Moral Rights maintain personal link between authors and their works. They include; right of paternity, (i.e. to be recognized as the author of a work), and right of integrity (i.e. to object to any changes to the work, which could damage the author's honor or reputation)

4. What are not protected under Copyright?

Copyright does not protect;

- (a) any idea, procedure, system, method of operation, concept, principle, discovery or mere data, even if it is or they are expressed, described, explained, illustrated or embodied in a work;
- (b) any official text of a legislative, administrative or legal nature, as well as any official translation thereof.

Copyright does not protect names, titles, slogans, or short phrases. In some cases, these things may be protected as trademarks. However, copyright protection may be available for logo art work that contains sufficient authorship. In some circumstances, an artistic logo may also be protected as a trademark.

5. What are Related Rights?

Also known as neighboring rights – Related rights are rights granted to a few categories of people for their important role in communicating and disseminating some types of works to the public.

6. What are the types of beneficiaries under related rights?

The rights granted to the three beneficiaries of related rights are;

- performing artists (such as actors and musicians) in their performances;
- producers of sound recordings (for example, cassette recordings and compact discs) in their recordings;
- broadcasting organizations in their radio and television programs.

7. What types of rights are granted to the beneficiaries of related rights?

Performers are provided the rights to prevent fixation (recording), broadcasting and communication to the public of their live performances without their consent, and the right to prevent reproduction of fixations of their performances under certain circumstances; the right in respect of broadcasting and communication to the public may be in the form of equitable remuneration rather than a right to prevent.

The producers of sound recording are granted the rights to authorize or prohibit reproduction, importation and distribution of their phonograms and copies thereof, and the right to equitable remuneration for broadcasting and communication to the public of phonograms

Broadcasting organizations are provided the rights to authorize or prohibit rebroadcasting, fixation and reproduction of their broadcast.

8. What are the conditions for the protection of copyright and related rights?

Originality is the only condition that a work must meet in order to be protected by copyright. This means that a work cannot simply be a copy of another work.

All original works enjoy copyright protection and protection is automatic

9. How do you obtain copyright and related right protection?

The Copyright Act, 2001 in keeping with international norm and practice does not require any formalities for the exercise and enjoyment of the rights. There is no need to register the work neither with the Intellectual Property Division nor with any other agency of the Government in order to avail copyright protection.

However, we have started Voluntary Deposit and Registration System for Copyright and Related Rights to assist authors and owners to establish *prima facie* proof of their rights over their work in times of litigation.

10.Who owns the copyright/ related rights?

"owner of copyright/related rights are

- where the economic rights are vested in the author, the author,
- where the economic rights are originally vested in a physical person other than the author or in a legal entity, that person or entity,
- where the ownership of the economic rights has been transmitted to a physical person or a legal entity, that person or entity;
- In respect of a work of joint authorship, the co-authors be the original owners of the economic rights. If, however, a work of joint authorship consists of parts that can be used separately and the author of each part can be identified, the author of each part shall be the original owner of the economic rights in the part that he has created.
- In respect of a collective work, the physical person or legal entity at the initiative and under the direction of whom or which the work has been created, shall be the original owner of the economic rights.
- In respect of a work created by an author employed by a physical person or legal entity in the course of his employment, the original owner of the economic rights shall be, unless provided otherwise in a contract, the employer.
- In respect of an audiovisual work, the original owner of the economic rights shall be, unless provided otherwise in a contract, the producer of the audiovisual work. The co-authors of the audiovisual work and the authors of the pre-existing works included in, or adapted for, the making of the audiovisual work shall, however, maintain their economic rights in their contributions or pre-existing works, respectively, to the extent that those contributions or pre-existing works can be subject of acts, covered by their economic rights, separately from the audiovisual work.

11.What is the duration of copyright/ related rights?

As per the Copyright Act of the kingdom of Bhutan;

- (1) The economic and moral rights shall be protected during the life of the author and for fifty years after his death.
- (2) In the case of a work of joint authorship, the economic and moral rights shall be protected during the life of the last surviving author and for fifty years after his death.

- (3) In the case of a collective work, other than a work of applied art, and in the case of an audiovisual work, the economic and moral rights shall be protected for fifty years from the date on which the work was first published or, failing such an event within fifty years from the making of the work, from its making;
- (4) In the case of a work published anonymously or under a pseudonym, the economic and moral rights shall be protected for fifty years from the date on which the work was first published, provided that where, before the expiration of the said period, the author's identity is revealed or is no longer in doubt, the provisions of subsection (1) or subsection (2) shall apply, as the case may be.
- (5) In the case of a work of applied art, the economic and moral rights shall be protected for twenty-five years from the making of the work.
- (6) The rights of performers are to be protected for 50 years from the date of the fixation or the performance,
- (7) The producers of sound recording shall be protected for 50 years from the date of the fixation.
- (8) and the broadcasting organizations are to be protected for 50 years from the date of the broadcast

12. Can Copyright be assigned?

As per the Copyright Act of the kingdom of Bhutan;

- Economic rights shall be assignable in whole or in part.
- Any assignment of an economic right shall be in writing signed by the assignor and the assignee.
- An assignment, in whole or in part, of any economic right shall not include or be deemed to include the assignment of any other rights not explicitly referred to therein.
- Moral rights are independent of economic rights and always remain with the author, even when the economic rights are sold.

13. What is a public domain?

The public domain consists of all the works that are not protected by copyright and are therefore free to use without permission from, or payment to, the original author.

This means that public domain works can be freely copied, distributed, adapted, performed and displayed in public as if they were owned by the public.

Works enter the public domain when:

- **Their copyright protection expires**

Copyright works enter public domain when the duration of copyright expires as mentioned in Q 9 above.

14.What are the remedies for copyright and related rights violation?

In terms of enforcement of rights, remedies for infringement or violation of copyright and related rights are namely, conservatory and provision measures, civil remedies, criminal sanctions against abuses in respect of technical means.

For further details refer the Copyright Act, 2001

15.What is a copyright notice? How do I put a copyright notice on my work?

The Copyright symbol © is often used as a reminder that a work is protected by Copyright. This symbol is often followed by the name of the owner of the copyright and the year in which the work was created.

For example, “**KMT © 2012**” would be used for a publication produced by KMT in the year 2012.

16.What is the purpose of the Voluntary Deposit and Registration system?

The purpose of the Voluntary Deposit and Registration system is to:

Provide copyright and related rights owners with a simple and effective means of establishing prima facie proof of authorship and/or ownership of their work,

Maintain database/repository of copyright and related rights information, and

Serve the public interest by providing statistical information on copyright and related rights works.

17.Where can I get application forms?

You can come to Intellectual Property Division in person; or you can download the [Forms](#) and [fee schedule](#) from our website www.ipbhutan.gov.bt

18.How do I register my copyright?

Every application for registration of copyright and related rights shall be made in accordance with Form CR1 (Annexure I) and shall be submitted in triplicate and Every application shall be in respect of one work only and shall be accompanied by the prescribed fee (Annexure II) based on category of work and you will need to deposit 2 copies of your work.

19.What is a deposit?

The applicant shall deposit two original copies of each work. In certain cases such as works of the visual arts, identifying materials such as photographs etc. may be deposited. The copies shall be duly sealed and signed by the Intellectual Property Division and the applicant/owner. One copy shall be retained by the Division and the other copy shall be returned to the applicant/owner.

20.How long does the registration process take?

Upon fulfillment of the conditions referred to in point no. 12 of Guideline for Voluntary Deposit and Registration of Copyright and Related Rights Works, 2012 the Intellectual Property Division shall publish notifications in its website (www.ipbhutan.gov.bt) inviting any opposition/objection to the application for registration of a work to be filed with the Division within one month from the date of publication of such notifications.

If there are no oppositions/objections filed within one month from the date of notification, the application is accepted for registration by the Intellectual Property Division and accordingly issue a certificate of registration signed by the Director to the applicant within one week from the date of expiry of the notification period. The certificate shall bear the seal of the office, the signature, the registration number and the effective date of registration. The effective date of registration shall be the date on which the registration certificate is issued by the office.

21.Why should I register my work if copyright protection is automatic?

It is not necessary for a work to be registered in order to get copyright protection. But if you do register the work you will receive a certificate which can be used to your advantage if your work is infringed.

Registration is valid for as long as the copyright for the work exists. Once you register your copyright, you do not have to renew it or pay additional fees to maintain.

22. What are the copyright owner's responsibilities?

The prime responsibility of protecting the copyrights lies with the right holders themselves, as they are the direct loser due to copyright piracy or infringement. Therefore, the right holders should take proper and adequate precaution to protect copyright works. The owners have to take legal action on their own if they believe their rights have been infringed.

Please note that, The Intellectual Property Division is not responsible for policing, or checking on registered works and their use, and will not guarantee that the legitimacy of ownership or originality in a work will never be questioned.

Contact us at +975-2- 335233

1. Trademark (Chhimi Lhazin, Ms. Jasu Thapa, Karma Zangmo)
2. Industrial Design (Kencho Palden)
3. Patent(Tshering Wangmo, Tempa Tshering, Dechen Wangmo)
4. Copyright (Dorji P, Kinga Dorji)