

COPYRIGHT REGISTRATION PROCEDURE



**PREPARED BY:
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**Small and Medium Enterprise Development Authority
Government of Pakistan**

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INTRODUCTION OF SMEDA

The Small and Medium Enterprise Development Authority (SMEDA) was established with the objective to provide fresh impetus to the economy through the launch of an aggressive SME development strategy. Since its inception in October 1998, SMEDA had adopted a sectoral SME development approach. A few priority sectors were selected on the criterion of SME presence. In depth research was conducted and comprehensive development plans were formulated after identification of impediments and retardants. The all-encompassing sectoral development strategy involved overhauling of the regulatory environment by taking into consideration other important aspects including finance, marketing, technology and human resource development.

After successfully qualifying in the first phase of sector development SMEDA reorganized its operations in January 2001 with the task of SME development at a broader scale and enhanced outreach in terms of SMEDA's areas of operation. Currently, SMEDA along with sectoral focus offers a range of services to SMEs including over the counter support systems, exclusive business development facilities, training and development and information dissemination through a wide range of publications. SMEDA's activities can now be classified into the three following broad areas:

1. *Creating a Conducive Environment*; includes collaboration with policy makers to devise facilitating mechanisms for SMEs by removing regulatory impediments across numerous policy areas
2. *Cluster/Sector Development*; comprises formulation and implementation of projects for SME clusters/sectors in collaboration with industry/trade associations and chambers
3. *Enhancing Access to Business Development Services*; development and provision of services to meet the business management, strategic and operational requirements of SMEs.

SMEDA has so far successfully formulated strategies for sectors, including fruits and vegetables, marble and granite, gems and jewellery, marine fisheries, leather and footwear, textiles, surgical instruments, transport and dairy. Whereas the task of SME development at a broader scale still requires more coverage and enhanced reach in terms of SMEDA's areas of operation.

Along with the sectoral focus a broad spectrum of services are now being offered to the SMEs by SMEDA, which are driven by factors like enhanced interaction amongst the stakeholders, need based sectoral research, over the counter support systems, exclusive business development facilities, training and development for SMEs and information dissemination through wide range of publications.

ROLE OF SMEDA LEGAL SERVICES CELL

The Legal Services Cell (LSC) is a part of Business Development Division of SMEDA and plays a key role in providing an overall facilitation and support to SMEs. The LSC provides guidance based on field realities pertaining to SMEs in Pakistan and other parts of the world.

LSC believes that information dissemination among the SMEs on the existing regulatory environment is of paramount importance and it can play a pivotal role in their sustainable development.

In order to facilitate SMEs at the Micro Level LSC has developed user-friendly systems, which provide them detail description of the Laws, and Regulations including the process and steps required for compliance.

The purpose of this document is to provide SMEs either individuals or companies with information pertaining to copyrights. Entrepreneurs interested in enhancing their understanding about the procedures and rights can also use the document. For convenience of the readers sample of various forms, instructions how fill up the forms and important addresses are also included.

DISCLAIMER

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What is copyright?

Copyright protects to original work of authorship fixed in any tangible medium of expression. Original work means the work which is not copied of any existing work. Copyright is a legal right to prevent others making copies, publish, reproduce, distribute etc. of your work without your permission. Copyright gives protection only to expressions, and not to ideas, procedures, methods of operation or mathematical concepts. It means that copyright does not give protection to idea only but it gives protection to expression of idea.

Works in which copyright subsists

Section 10 of the ordinance provides that the copyright shall subsist throughout Pakistan in the following classes of works, that is to say,

- (a) original literary, dramatic, musical, and artistic works,
- (b) cinematographic works; and
- (c) records.

In the light of the above, works covered by the copyright include, but are not limited to, novels, poems, plays, reference work, newspapers, computer programs, databases, films, musical compositions, choreography, paintings, drawings, photographs, sculpture, architecture, advertisements, maps, and technical drawings.

Is computer software protected by copyright?

In 1970s and 1980s there were many conflict regarding computer software protection. Some experts were in the opinion that the computer software should be protected under the copyright system and some were in the opinion that it should be protected under the patent system. Finally they reached to consensus that computer software should be protected by copyright, whereas apparatus using computer software or software-related inventions should be protected by patent. The reasons behind this consensus was that the Copyright system gives protection only to expressions, and not to ideas, procedures, methods of operation or mathematical concepts as such, whereas a patent system gives an exclusive right for an invention, which is a product or a process that provides a new way of doing something, or offers a new technical solution to a problem.

In Pakistan the computer program has been protected under the copyright domain. For this purpose, the definition of 'literary work' is amended by the Copyright (Amendment) Act, 1992 to include computer programmes under the copyright regime. The ordinance defines literary work to include work, on

computer programmes *"that is to say programmes recorded on any disc, tape, perforated media or other information storage devices, which, if fed into or located in a computer or computer based equipment is capable of reproducing any information"*.

The function of a computer program or what the program does is not protectable under the copyright regime, instead it gives the owner only the right to prevent anybody else from duplicating the expression or manner of presentation of the set of instructions that constitute the program. (For complete understanding of computer software copyright registration procedure please consult our another document on that subject).

Copyrights law applicable in Pakistan

In Pakistan, the Copyright Ordinance, 1962 (hereinafter referred as "the ordinance") is the law which deals with the copyright protection. The ordinance gives the exclusive right to the owner of copyright to do and authorize the doing to reproduce, publish, copy, broadcast etc. of copyrighted work. Pakistan is also a member of Berne Convention 1886, Universal Copyright Convention 1948 and the Trade Related Intellectual Property Rights (TRIPS) Agreement 1994 under the World Trade Organization (WTO).

Who is the first owner of copyright?

Section 13 of the ordinance provides that **the author of a work shall be the first owner of the copyright**. Authorship applies to either the individual creator or to a "work for hire". When an independent individual creates an original work he will be the first owner of copyright. Where a work is made by an employee in the course of employment and as part of the employee's usual duties, the employer will be the first owner of copyright.

Is copyright registration necessary for protection?

The ordinance does not require mandatory registration of copyright but registration does provide certain rights and is highly recommended. Copyright rights are obtained automatically without its registration or other formalities. The rights under copyright law arise as soon as the author creates the work in any tangible medium. As it has been specified above that Pakistan is a member of Berne Convention 1886 for the Protection of Literary and Artistic Works, according to the Berne Convention, literary and artistic works are protected without any formalities in the countries party to that Convention.

**Above content is the part of
final examination**

Procedure for registration of copyright

The author or publisher or any other person interested in copyright in any work may make an application in prescribed form accompanied by the prescribed fee to the Registrar for entering particulars of the work in Register of Copyrights. For each work separate application has to be filed by the applicant. For registration of copyright the following documents are required to be submitted to the Registrar of Copyrights-Karachi.: --

- Application for registration in triplicate in **Form-II** (Form-II alongwith instructions how to filling the Form annexed herewith at page#11). The person applying for registration shall simultaneously send a copy of the application to every other person who may be effects and interested in the copyright of the work.
- All application for registration must be accompanied by Statement of Particulars (annexed herewith at page#13). This statement will be submitted in triplicate.
- In addition to the Statement of Particulars, a Statement of Further Particulars (annexed herewith at page#14) in triplicate is also required to be submitted for the registration of Literary, Dramatic, Musical and Artistic works.
- Two copies of the actual work to be copyrighted.
- Where professionals services are hired to create a work to be copyrighted, affidavit of that professional will be submitted along with the application stating that he has not any right or claim regarding the work to be copyrighted (sample affidavit is attached herewith at page#15)
- Registration fee of Rs. 500/- by challan paid into the State Bank of Pakistan/ National Bank of Pakistan or by bank draft/pay order in favour of Registrar of copyrights.
- For the registration of artistic work, applicant shall palace an advertisement in the newspaper and submits two copies of this advertisement to the registrar copyrights. Advertisement should be placed in the prescribed format as given in the Copyright Rules (sample format is attached herewith at page#16).

On receipt of application, the Registrar shall enter the particulars of the work in the Register of Copyrights and issue a certificate of such registration to the applicant unless, for reason to be recorded in writing, he considers that such entry should not be made in respect of any work. A certificate of registration of copyright in a work shall be prima facie evidence that copyrights subsists in the work and that the person shown in the certificate as the owner of the copyright is the owner of such copyright.

Foreign Authors

The Ordinance has distinct provisions for Pakistani and foreign works. It provides that a work published in Pakistan, will be considered to be first published in Pakistan even if this work has been published simultaneously in some other country, unless process of attaining copyright in that country is of shorter term. The work will be considered to be simultaneously published in Pakistan and in another country, if the time between the publication in Pakistan and the publication in that country does not exceed thirty days. The Ordinance also entitles a corporate body to be considered domiciled in Pakistan if it is incorporated under any law, in force, in Pakistan or it has an established place of business in Pakistan. Although the Ordinance has provisions for granting compulsory licences, nevertheless, such a licence can only be acquired for Pakistani work and no compulsory licence can be granted for any work whose author is not a citizen of Pakistan or whose work is not manufactured in Pakistan.

Duration of Copyrights

Section 18 of the ordinance provides that in published literary (including computer program), dramatic, musical and artistic work copyright shall subsist within the lifetime of the author until fifty years after the death of the author.

Infringement of copyright

The act of copying of work, which is entitled to copyright protection, by any method, either directly or with the aid of a machine or device, constitutes an infringement of the copyright. The Ordinance provides copyright protection in the following cases:

(a) When any person without the consent of the owner of the copyright or without a license granted by owner of copyright or the Registrar under the Ordinance:

- a) Evades any of the rights given to the author of the Copyright, or
- b) Permits for profit any place to be used for the performance of the work in public where such performance constitutes an infringement of the copyright in the work unless he was not aware and had no reasonable ground for suspecting that such performance would be an infringement of the copyright.

(b) When any person: -

- (i) Makes for sale or hire or sells or lets for hire, or by way of trade displays or offers for sale or hire, or
- (ii) Distributes either for the purpose of trade to such an extent as to affect prejudicially the owner of the copyright, or
- (iii) By way of trade exhibits in public, or
- (iv) Imports into Pakistan any infringing copies of the work.

Remedies for Infringement of copyright

There are two remedies for breach of copyright in Pakistan; civil proceedings and criminal proceedings. Accordingly, a person whose copyrights have been infringed may sue for damages, claim an injunction, claim account of the profits gained by the defendants as a result of the infringement, confiscate infringed articles etc. Recently added section of the Ordinance provides that all offences under the Ordinance are cognizable and non-bailable. The Ordinance provides that the original owner of the copyright may bring an action, which includes the person to whom an exclusive licence has been granted. Amended Section of the Ordinance provides that every suit or other civil proceedings regarding infringement, at the discretion of the applicant, should be instituted and tried in the Court of the District Judge.

The Ordinance, as amended by the Amendment Act, provides that any person who knowingly infringes or facilitates the infringement of the copyright in a work (defined to include computer programmes), or any other right conferred by the Ordinance will be punishable. The punishment may be in the form of imprisonment extended to three (3) years, or fine upto to Rs. 100,000, or both. Additionally, the Ordinance provides that where any person convicted for an offence punishable under this law is again convicted for the same offence, he shall in such event be imposed with a fine (beside the imprisonment upto 3 years) of upto Rs. 200, 000. Recently amended section of the Ordinance now gives additional powers to the police to seize infringing copies of the work wherever found, without warrant, and all copies, plates and recording equipment seized shall, as soon as possible, be produced before a Magistrate.

Offences by companies

In case of an offence committed by a company, the person who was in charge of, or was responsible for conducting business of the company is considered to be guilty of that offence and is liable to be proceeded against and punished accordingly.

Important Addresses

REGISTRAR OF COPYRIGHTS

Mr. Shakeel Ahmad Abbasi – Registrar Central
Copyright Office,
Government of Pakistan, Ground Floor,
Liaquat Memorial Library Building,
Adjacent T.V. Station, National Stadium Road,
Karachi.
Tel: 021-9230141
Fax: 021-9230140

DEPUTY REGISTRAR of COPYRIGHTS

Mr. Imtiaz Ali
Deputy Registrar
3rd Floor, Farid Tower, 19 Temple Road, Lahore, Pakistan
Tel: +92-42-7224395
Fax: +92-42-7224396

FORM-II
APPLICATION FOR REGISTRATION OF COPYRIGHTS
 (See rule 4(1))

To,
 The Registrar of Copyrights,
 Copyright Office,
 Karachi

Sir,

In accordance with section 39 of the Copyright Ordinance, 1962 (XXXIV of 1962), I hereby apply for registration of copyright and request that entries may be made in the Register of Copyrights as in the enclosed statement of particulars sent herewith in triplicate.

I also send herewith duly completed the statement of further particulars relating to my work

2. In accordance with sub-rule (3) of rule 4 of the Copyright Rules, 1967, I have sent by hand/pre-paid registered post copies of this letter and of the enclosed statement(s) to the other parties concerned, as shown below: --

Name and address of the parties	Date of Dispatch
1	2

3. The prescribed fee has been paid, as per details below: -

4. Communication on the subject may be addressed to: _____

Yours faithfully,

.....
 (Signature)

List of enclosures

Place.....

Date.....

INSTRUCTIONS FOR FILLING FORM - II
APPLICATION FOR REGISTRATION OF COPYRIGHT

The para-wise instructions for filling of registration application are given below:

- Para 2: As it is mentioned above that under the Copyright Rules the person applying for registration shall simultaneously send a copy of the application to every other person interested in the copyright of the work. In the table given in para 2 the names of all the affected parties to whom notice has been sent is to be included. While entering the details in this table applicant should ensure that information as sought at columns 7,11,12 and 13 of the Statement of particulars and party referred to at column 2 (e) of "Statement of Further Particulars" corroborate.
- Para 3: In para 3 applicant should give the detail regarding mode of registration fee payment. Give challan No. and the name of bank/branch in which the fee has been deposited by the applicant.
- Para 4: Give complete name and address of the applicant at which address communication regarding registration procedure may be addressed by the Registrar.

STATEMENT OF PARTICULARS

(To be sent in triplicate)

1. Registration Number (to be filled in the Copyright Office)
2. Name, address and nationality of the applicant.
3. Nature of the applicant's interest in the copyright of the work.
4. Class and description of the work and the year of creation.
5. Title of the work.
6. Language of the work.
7. Name, address and nationality of the author and if the author is dead, the date of his death.
8. Whether work is published or unpublished.
9. Year and country of first publication and name, address and nationality of the publisher.
10. Year and countries of subsequent publications, if any and names, addresses and nationalities of the publishers.
11. Names, addresses and nationalities of the owners of the various rights comprising the copyright in the work and the extent of rights held by each, together with particulars of assignments and licenses, if any.
12. Names, addresses and nationalities of other persons, if any, authorised to assign or license the rights comprising the copyright.
13. If the work is an "Artistic Work", the location of the original work, including name, address and nationality of the person in possession of the work. (In the case of an architectural work, the year of completion of the work should also be mentioned).
14. Remarks, if any

Place.....

Date.....

.....
(Signature)

STATEMENT OF FURTHER PARTICULARS

(For Literary, Dramatic, Musical and Artistic Works Only)

(To be Sent in Triplicate)

1. If the work to be registered, whether the work is: --
 - (a) an original work?
 - (b) a translation of a work in the public domain?
 - (c) a translation of a work in which copyright subsists?
 - (d) an adaptation of a work in public domain?
 - (e) an adaptation of work in which copyright subsists?
2. If the work is a translation or adaptation of a work in which copyright subsists: --
 - (a) title of the original work;
 - (b) language of the original work;
 - (c) name, address and nationality of the author of this original work and if the author is dead, the date of his death;
 - (d) name, address and nationality of the publisher, if any, of the work;
 - (e) particulars of the authorization for a translation or adaptation including the name, address and nationality of the party authorizing.
3. Remarks, if any.

Place.....

Date.....

.....
(Signature)

TABLE REPLACED WITH
OTHER AFFIDAVIT

2085



AFFIDAVIT

I, Wasim Alam son of Muhammad Yaseen Ansari, residing at Karachi, do hereby state on Oath and declare as under:-

1. That I am a commercial artist/Designer by profession and running my business at Plot No.828, Sector C-3, Saeedabad, Baldia Town, Karachi
2. That as per the instructions of Muhammad Ilyas, Pakistani National Sole Proprietor trading as M/s. SANAM FOOD PRODUCTS, Manufacturers and merchants, Shop No.20, Rehmat Market, Near Thatta Bus Stand, Lee Market, Karachi, I have created the artistic work/label design under title " SANAM PISTA CLASSIC" in English and Urdu, in the year 1986.
3. That I have received in full and final settlement of my professional charges for the above work.
4. That I have no right or claim in respect of the above mentioned artistic work/label design and Muhammad Ilyas, Pakistani National Sole Proprietor trading as M/s. SANAM FOOD PRODUCTS, Manufacturers and merchants, Shop No.20, Rehmat Market, Near Thatta Bus Stand, Lee Market, Karachi, is the sole and absolute owner thereof.
5. That whatsoever stated here-in-above is true and correct to the best of my personal knowledge, information and belief.
6. An attested copy of the work is enclosed herewith.

Dated this 11th day of April, 2001

DEPONENT

11 APR 2000

ATTESTED

CH. ABDUL LATIF
NOTARY PUBLIC
Karachi, Pakistan

ADVERTISEMENT FOR THE REGISTRATION OF COPYRIGHT

(Under the proviso to Sub-Section (2) of Section 39 of the Copyright Ordinance, 1962)
read with Rule (3-A) of Copyright rules, 1967

Space for the sample of work
to be copyrighted

General Public and all concerned persons are hereby informed that we M/s. _____ have applied for registration of Copyrights of above Artistic Work/_____ under the title of "_____" in the Central Copyright Office, Government of Pakistan, Karachi on _____.

Any person/Authority having any interest, claim, right, lien, objection or whatsoever should file objection in writing, if any, within one month of the publication of this advertisement to The Registrar of Copyrights, Central Copyright Office, Ministry of Education, Gov of Pakistan, Ground Floor, Liaquat Memorial Library Building, Stadium Road, Karachi.

ADDRESS OF THE APPLICANT

FLOW CHART

