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Contributing editors

Steven R Englund, Andrew H Bart, Susan J Kohlmann and Andrew J Thomas



Publisher

Tom Barnes
tom.barnes@lbresearch.com

Subscriptions

Claire Bagnall
claire.bagnall@lbresearch.com

Senior business development manager

Adam Sargent
adam.sargent@gettingthedealthrough.com

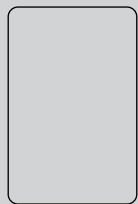
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**Steven R Englund, Andrew H Bart, Susan J Kohlmann
and Andrew J Thomas**

Jenner & Block LLP

Lexology Getting The Deal Through is delighted to publish the sixteenth edition of *Copyright*, which is available in print and online at www.lexology.com/gtdt.

Lexology Getting The Deal Through provides international expert analysis in key areas of law, practice and regulation for corporate counsel, cross-border legal practitioners, and company directors and officers.

Throughout this edition, and following the unique Lexology Getting The Deal Through format, the same key questions are answered by leading practitioners in each of the jurisdictions featured. Our coverage this year includes new chapters on the European Union and Russia.

Lexology Getting The Deal Through titles are published annually in print. Please ensure you are referring to the latest edition or to the online version at www.lexology.com/gtdt.

Every effort has been made to cover all matters of concern to readers. However, specific legal advice should always be sought from experienced local advisers.

Lexology Getting The Deal Through gratefully acknowledges the efforts of all the contributors to this volume, who were chosen for their recognised expertise. We also extend special thanks to the contributing editors, Steven R Englund, Andrew H Bart, Susan J Kohlmann and Andrew J Thomas of Jenner & Block LLP, for their continued assistance with this volume.



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Italy

Nicoletta Galizia

Studio Legale Jacobacci & Associati

LEGISLATION AND ENFORCEMENT

Relevant legislation

1 | What is the relevant legislation?

The main source of law regulating copyright in Italy is Law No. 633 of 22 April 1941 (the Copyright Act), as supplemented and amended by subsequent laws.

The Italian Civil Code also contains some provisions concerning copyright (articles 2575 to 2583).

Moreover, as a member of the European Union, Italy is also subject to European legislation (regulations and directives) concerning copyright.

Finally, Italy is also a member state of several international treaties concerning copyright law, including the Berne Convention for the protection of Literary and Artistic Works of 1886.

Enforcement authorities

2 | Who enforces it?

Copyright can be enforced before civil courts that specialise in intellectual property matters (created by Legislative Decree No. 168/2003) by the copyright holder, the author or their heirs, as well as by an exclusive licensee (it is still disputed whether the non-exclusive licensee can enforce copyright). Finally, the Italian Society of Authors and Publishers (SIAE) can also enforce copyright on behalf of its members.

Moreover, in 2018 (Resolution No. 490/18/CONS), the independent Italian Communications Regulatory Authority (AGCOM) that was established in 1997 as the national media regulatory body, introduced some amendments to the existing Regulation on copyright enforcement in electronic communications networks. AGCOM now has specific powers for further combating copyright infringement, such as the power to adopt precautionary measures against specific violations. AGCOM can, for example, following a specific administrative procedure, order that an internet service provider remove or block access to websites hosting copyright infringing materials.

Online and digital regulation

3 | Are there any specific provisions of your copyright laws that address the digital exploitation of works? Are there separate statutory provisions that do so?

The only specific provision under Italian copyright law that expressly addresses the digital exploitation of protected works is article 70 (1-bis) of the Copyright Act, which allows the publication through the internet of low-resolution or degraded images and music for educational or scientific purposes only, provided that such use is not for profit.

However, Directive (EU) 2019/790 on copyright and related rights in the Digital Single Market provides the following:

- new mandatory exceptions and limitations for reproductions and extractions of lawfully accessible works and other subject matter for the purposes of text and data mining, as well as for teaching activities or for the purpose of preservation of cultural heritage (including cross-border uses);
- new rights for press publishers regarding the online use of their press publications by information society service providers (those rights do not apply to private and non-commercial use of press publications by individual users, hyperlinking and use of single words or very short extracts of a press publication); and
- the necessity for content-sharing internet service providers to obtain an authorisation from the rights holders (eg, through a licensing agreement) to make copyrighted works available to the public. If such authorisation is granted, it shall also cover acts carried out by users of the internet service provider when they are not acting on a commercial basis or where their activity does not generate significant revenues.

Italy is in the process of implementing Directive (EU) 2019/790. The deadline for implementation is 7 June 2021.

Extraterritorial application

4 | Do your copyright laws have extraterritorial application to deal with foreign-owned or foreign-operated websites that infringe copyright?

Yes, according to Italian case law, in a certain way, copyright laws are applicable to foreign-owned or foreign-operated websites that infringe copyright, as long as the infringing material is directed at the Italian public or is visible from Italy. In particular, the consequence of such content on a foreign-owned or foreign-operated website is that it would be blocked in Italy.

Agency

5 | Is there a centralised copyright agency? What does this agency do?

Until 2017, SIAE was the only administrative body acting as a register and a collecting society of authors, publishers, composers and other owners of copyright. From 2017, it became possible for other organisations to perform the same functions, according to the provisions under Legislative Decree No. 35/2017 (see article 180 of the Copyright Act).

The main function of these organisations is intermediation in the field of authors' rights. They are entrusted with authorising the use of works, collecting fees due from users and distributing fees to the rights holders.

SUBJECT MATTER AND SCOPE OF COPYRIGHT

Protectable works

6 | What types of works may be protected by copyright?

Article 2 of Law No. 633 of 22 April 1941 (the Copyright Act) protects creative works of literature, music, fine arts, architecture, theatre and cinematography, computer programs, databases and, under specific conditions, objects of industrial design. According to Italian case law and doctrine, this list is considered 'open' and thus does not exclude the potential for other creative works to be protected by copyright.

Rights covered

7 | What types of rights are covered by copyright?

Copyright law covers the moral rights (article 20 of the Copyright Act) and economic rights (article 12) of the author or rights holder.

Excluded works

8 | What may not be protected by copyright?

An idea that is not expressed in any form or expression, cannot be protected by copyright (article 1 of the Copyright Act).

Moreover, the official documents of the Italian Republic and of the Italian and foreign public administrations are excluded from copyright protection as well (article 5).

Fair use and fair dealing

9 | Do the doctrines of 'fair use' or 'fair dealing' exist, and, if so, what are the standards used in determining whether a particular use is fair?

In Italy, the doctrine of fair use has not been implemented. The only limitation to the exclusive right of the copyright owner is set forth in article 70 of the Copyright Act, which provides that summaries, quotations, reproductions and communications to the public of mere abstracts of works are allowed, if carried out for criticism or discussion purposes, or for teaching or scientific research purposes.

Architectural works

10 | Are architectural works protected by copyright? How?

Architectural works are protected as long as they manifest the personal imprint of the author and can be recognised as his or her unique creation due to precise choices in the composition of their elements. The choices must not be dictated by the necessity to solve a technical or functional problem (article 2 of the Copyright Act).

Performance rights

11 | Are performance rights covered by copyright? How?

Performance rights are covered by Italian copyright law (article 80 et seq of the Copyright Act). In particular, performers have the exclusive right (for 50 years following the performance) to authorise the reproduction, distribution or rental of their performance (article 85).

According to the Copyright Act, the performer can also enforce his or her moral rights against any communication or reproduction of his or her performance that might be prejudicial to his or her honour or reputation (article 81).

Neighbouring rights

12 | Are other 'neighbouring rights' recognised? How?

Italian copyright law recognises specific rights for those individuals who have certain connections to the author of the work. These rights protect interests related to the exercise of the author's right and work that are the result of an industrial activity in the cultural and creative field. In addition to performers, the most important neighbouring rights are those reserved for:

- phonographic producers (article 72 et seq of the Copyright Act);
- producers of cinematographic or audiovisual works (article 78-bis et seq);
- radio and television broadcasting companies (article 79 et seq); and
- photographs (article 87 et seq).

Neighbouring rights are characterised by a shorter period of protection than copyright.

Moral rights

13 | Are moral rights recognised?

Moral rights are recognised under Italian copyright law (article 20 of the Copyright Act). They correspond to the right of the author to be recognised as author of the work (right of paternity) and to preventing any third party from modifying the work without the author's permission (right of integrity). Moral rights are perpetual and cannot be assigned or waived (article 22 to 23).

COPYRIGHT FORMALITIES

Notice

14 | Is there a requirement of copyright notice?

No, there is no general requirement of copyright notice.

15 | What are the consequences for failure to use a copyright notice?

None, since copyright notice is not required by law.

Deposit

16 | Is there a requirement of copyright deposit?

Article 105 of Law No. 633 of 22 April 1941 (the Copyright Act) provides a general requirement of copyright deposit, requiring authors and producers to file a copy of the work with the Office of the President of the Council of Ministers within 90 days of publication or the start of the commercialisation of the work (this term is 60 days from the first representation, showing or public performance for works of public entertainment).

This deposit obligation does not apply to photographs, except for those photographs that reproduce works of figurative or architectural art or photographs of a technical or scientific nature or outstanding artistic value (article 105, paragraph 4 of the Copyright Act).

Moreover, article 103 provides for the possibility to deposit, on a voluntary basis, a work of software with the register kept by the Italian Society of Authors and Publishers. This registry indicates the name of the owner of the economic rights and the date of publication of the software (publication being the first act of exercise of the exclusive rights).

Nevertheless, those deposits rarely take place in practice and the failure to make the deposit is not sanctioned by the law.

17 | What are the consequences for failure to make a copyright deposit?

Article 106 of the Copyright Act provides that the failure to make a copyright deposit does not affect the acquisition and exploitation of the economic rights of the copyright over a protected work.

Nevertheless, the copyright deposit may be useful as proof of authorship and to establish the date of creation and date of publication of the works, in case they are disputed (article 103, paragraph 5).

Registration

18 | Is there a system for copyright registration, and, if so, how do you apply for a copyright registration?

No, Italian legislation does not provide for a copyright registration system.

19 | Is copyright registration mandatory? If voluntary, what are the benefits of registration?

No, there is no mandatory or voluntary registration. The Copyright Act provides a general requirement of copyright deposit, requiring authors and producers to file a copy of the work with the Office of the President of the Council of Ministers within 90 days of publication or the start of the commercialisation of the work.

20 | What are the fees to apply for a copyright registration?

Italian legislation does not provide for a copyright registration system.

21 | What are the consequences for failure to register a copyrighted work?

Italian legislation does not provide for a copyright registration system.

OWNERSHIP AND TRANSFER

Eligible owners

22 | Who is the owner of a copyrighted work?

In general terms, the owner of a copyrighted work is its creator, the author. More specifically, article 8 of Law No. 633 of 22 April 1941 (the Copyright Act) stipulates that the author is considered to be the person identified as such in the forms of use (ie, the person who is announced as such in the recitation, representation, performance or broadcasting of a protected work).

Specific rules are provided in these cases:

- the author or owner of collective works (ie, works consisting of different and separate contributions coordinated for a specific and common purpose) is the person who organises and coordinates the creation of the work (article 7 of the Copyright Act);
- works that are made with the indistinguishable and inseparable contribution of several persons belong to all such persons, collectively (article 10); and
- works made and published in the name, on behalf of and at the expense of the state administrations belong to the state administrations (article 11 of the Copyright Act). The same applies for non-profit-making organisations, academies and other cultural organisations with reference to their records or publications (or both).

Employee and contractor work

23 | May an employer own a copyrighted work made by an employee?

Yes, the exploitation rights of certain copyrighted works, in particular, software, databases and industrial design (see article 12-bis and 12-ter of the Copyright Act), made by employees in the performance of their duties are automatically owned by the employer. The owner, in this case, is not the author.

In all other cases, such ownership is not automatic: the alleged owner must be able to offer written evidence of his or her rights.

24 | May a hiring party own a copyrighted work made by an independent contractor?

Yes, the exploitation rights of a copyrighted work made by an independent contractor are owned by the hiring party. Such ownership is automatic, thus a written agreement is not necessary, but it is always advisable to be able to provide written evidence of the hiring relationship.

Joint and collective ownership

25 | May a copyrighted work be co-owned?

Yes. This is the case of works of joint authorship, which are created by several persons whose contributions are indistinguishable and inseparable. Copyright of those works is jointly co-owned by all co-authors and is governed by the provisions on community of property (article 1100 et seq of the Italian Civil Code). In such cases, all co-owners may individually act to defend the moral rights in a co-owned work.

By contrast, the publication, modification or new use of the work in a form other than that of its first publication must be approved by all the co-authors (article 10 of the Copyright Act). However, in the event of an unjustified refusal by one or more of the co-authors, the publication, modification or new use of the work may be authorised by the judicial authorities.

Transfer of rights

26 | May rights be transferred? If so, what rules and procedures apply?

Yes, the economic exploitation rights of a copyrighted work may be transferred by deed between living persons or mortis causa (article 107 of the Copyright Act), and the transfer must be proved in writing (article 110). The transfer agreement may include all of the exploitation rights or only some of them, in which case the other rights remain at the assignor's disposal (article 119). Furthermore, the transfer of some exploitation rights does not extend to the rights to use any elaboration or transformation of the copyrighted work (article 119).

Specific rules apply in the following cases.

- The transfer of one or more copies of a copyrighted work does not imply, unless otherwise agreed, the transfer of the exploitation rights as well (article 109). However, the transfer of a mould or other medium used to reproduce a work of art entails, unless otherwise agreed, the right to reproduce the work itself (article 109).
- After the artist's death, the exploitation right of the works, unless otherwise indicated by the artist, is shared by all heirs for three years, after which the heirs may decide whether to maintain the exploitation right as community property and for how long (article 115).
- In the case of an editing contract, the editor cannot transfer the acquired exploitation rights to third parties, unless otherwise agreed or in the case of transfer of the company (article 132).

Moral rights cannot be transferred and remain at the disposal of the author and of his or her heirs.

Licensing

27 | May rights be licensed? If so, what rules and procedures apply?

Economic rights in copyrighted works may be licensed according to the general rules and procedures provided by the Italian Civil Code on freedom of contract. As with transfer agreements, the existence of a licence agreement must be proved in writing, although it may (at least in theory) also be concluded orally (article 110 of the Copyright Act).

28 | Are there compulsory licences? What are they?

No, there are no compulsory licences for copyright under Italian law.

29 | Are licences administered by performing rights societies? How?

The licensing activity can be carried out by the Italian Society for Authors and Editors as well as other organisations that respect the provisions indicated in Legislative Decree No. 35/2017 (see article 180 of the Copyright Act).

In particular, those organisations shall:

- grant licences and authorisations for the economic exploitation of copyrighted works (article 180, paragraph 2 of the Copyright Act) – such licensing shall take place on fair and non-discriminatory commercial terms, based on simple, clear, objective and reasonable criteria and the fees shall be agreed on the basis of the economic value of the use of the rights, considering the nature and extent of the use of the copyrighted works (article 22, Legislative Decree No. 35/2017); and
- collect the proceeds of such licences and authorisations and distribute such sums regularly among the rights holders (article 180, paragraph 2 of the Copyright Act) – such distribution shall take place within nine months of the end of the financial year in which the proceeds were received (article 1 of Legislative Decree No. 35/2017).

The copyright holders, when entrusting the management of their rights to one of those organisations, must specify in writing which rights they intend to entrust (article 4 of Legislative Decree No. 35/2017).

Nevertheless, licences, as well as any other economic right, may also be handled by the authors or their heirs or successors in title directly (article 180, paragraph 4 of the Copyright Act).

Termination

30 | Is there any provision for the termination of transfers of rights?

No, there are no specific provisions under Italian copyright law and, therefore, general rules are applicable.

Recordal

31 | Can documents evidencing transfers and other transactions be recorded with a government agency?

Deeds drawn up by living persons transferring all or part of the economic rights and other transactions related to rights on copyrighted works can be registered at the Office of Literary, Artistic and Scientific Property, established at the Office of the President of the Council of Ministers. The following must be filed: (1) a certified copy of the deed or the original of a private contract with certified signatures, accompanied by a copy of the

deed; and (2) a declaration in duplicate containing the applicant's data, the nature and date of the deed to be registered, the name of the public official who received the act and authenticated the signatures, and the registration number of the deposit of the protected work (article 104 of the Copyright Act).

DURATION OF COPYRIGHT

Protection start date

32 | When does copyright protection begin?

Copyright protection begins with the creation of a work in an expressive form (article 6 of Law No. 633 of 22 April 1941 (the Copyright Act) and article 2576 of the Italian Civil Code), as the mere idea cannot be protected. However, it is not required that the work is fixed in a material support, as oral communication (eg, a professor's lecture) can be protected as well.

Indeed, there is no general requirement of notice, registration or deposit of the work to obtain protection, although article 105 of the Copyright Act formally provides that the work must be deposited with the Office of the President of the Council of Ministers. The failure to make such a deposit does not affect the acquisition or exercise of the economic exploitation rights in the work, as provided by the subsequent article 106 of the Copyright Act.

Duration

33 | How long does copyright protection last?

The protection of moral rights is perpetual and, after the author's death, the rights belong to his or her spouse, children and other ascendants and descendants (article 23 of the Copyright Act).

Economic rights are granted for the life of the author plus 70 years after his or her death (article 25 the Copyright Act). Specific rules are provided in the following cases.

- The protection of anonymous or pseudonymous works expires 70 years after the first publication of the works, as long as the pseudonym is such as to guarantee the author's anonymity (article 27). However, if the author's name is disclosed – either by the author or by his or her heirs or authorised persons – before the expiry of that date, protection of the economic rights is granted for 70 years after the artist's death, according to the general rule.
- The copyright protection for works of joint authorship (ie, works created with the indistinguishable and inseparable contributions of several persons) expires 70 years after the death of the last surviving co-author (article 26, paragraph 1).
- The copyright protection for collective works (ie, works consisting of different and separate contributions coordinated for a specific and common purpose) expires 70 years after first publication, while the protection period for each contribution runs from its respective author's death (article 26, paragraph 2).
- The copyright protection for posthumous works (ie, works published for the first time after the author's death) expires 70 years after the author's death (article 31). However, the lawful publication of a work for the first time after the expiry of that protection period guarantees the rights of economic exploitation of the work for a period of 25 years after the first publication (article 85-ter).
- The copyright protection for works published in separate and subsequent volumes and parts runs from the publication of each volume or part (article 30).
- The copyright protection for cinematographic works expires 70 years after the death of the last surviving contributor among the following persons: the artistic director, the authors of the screenplay and the composer of the music specifically created for that work (article 32).

Specific rules are also provided for 'neighbouring rights' (the rights granted to other persons who are connected with the author of the work and who offer the work for public use), as follows.

- The rights of the performing artists, of the producers of phonograms and cinematographic works and of radio or television broadcasting last for 50 years, respectively, from the first performance, fixation or broadcast of the works (articles 75, 78-ter, 79 and 85 of the Copyright Act).
- The rights of the author of critical and scientific editions of a work in the public domain last for 20 years from the first lawful publication of the edition (article 85-quater).
- The rights of the author of 'simple photographs' (ie, photographs that have no artistic value) last for 20 years from when they were produced (article 92). By contrast, the duration of protection for photographs reproducing works of figurative or architectural art or that have a technical or scientific nature or outstanding artistic value is 40 years, starting from the mandatory deposit of the work with the Office of the President of the Council (as required by article 105).
- The right to obtain compensation for an engineering project work lasts for 20 years from the mandatory deposit of the work at the Office of the President of the Council (article 99).

34 | Does copyright duration depend on when a particular work was created or published?

In general terms, copyright duration does not depend on when the work was created or published, but it only depends on the life of the author.

However, in some cases the duration of protection specifically depends on the date of publication or creation of a work. According to the Copyright Act:

- anonymous or pseudonymous works are protected for 70 years after first publication (article 27);
- collective works consisting of different and separate contributions coordinated for a specific and common purpose are protected for 70 years after first publication (article 26, paragraph 2);
- works published in separate and subsequent volumes and parts are protected from the publication of each volume or part (article 30);
- 'simple photographs' (ie, photographs that have no artistic value) are protected for 20 years from their production (article 92);
- photographs reproducing works of figurative or architectural art or that have a technical or scientific nature or outstanding artistic value are protected for 40 years from the mandatory deposit of the work, as required by article 105;
- engineering project works' compensation right lasts 20 years from mandatory deposit at the Office of the President of the Council (article 99); and
- protection of performing artists, producers of phonograms and cinematographic works and of radio and television broadcasting lasts 50 years, respectively, from the first performance, fixation or broadcast of the work (articles 75, 78-ter, 79 and 85).

Renewal

35 | Do terms of copyright have to be renewed? How?

It is not possible to renew the term of copyright protection under Italian law. Once the protection period has lapsed, the work becomes part of the public domain and is freely available to everyone.

Government extension of protection term

36 | Has your jurisdiction extended the term of copyright protection?

The term of copyright protection was extended from 50 to 70 years by Law No. 52 of 6 February 1996 (article 17), which also extended to 50 years the protection term for performing artists, and producers of phonograms and cinematographic works and radio or television broadcasting.

COPYRIGHT INFRINGEMENT AND REMEDIES

Infringing acts

37 | What constitutes copyright infringement?

The general rule is that any unauthorised use of protected works by a third party constitutes copyright infringement.

Law No. 633 of 22 April 1941 (the Copyright Act) provides the following exceptions:

- the making of a copy of a volume or of a work or article for private use (article 68);
- the reproduction or communication to the public of articles concerning arguments of an economic, political or religious nature, provided that the name of the author, the source and the date of publication are specified and the reproduction and/or communication has not been expressly reserved (article 65); and
- the reproduction and communication of summaries or quotations of works, provided that they are carried out for criticism or discussion purposes or for teaching or scientific research purposes, and that such use is not for commercial purposes (article 70).

Vicarious and contributory liability

38 | Does secondary liability exist for indirect copyright infringement? What actions incur such liability?

Under Italian law there is no distinction between primary or secondary infringement or liability. The general rule is that any unauthorised use of a protected work falls under copyright infringement and any user engaging in such an act is liable for infringement. As to contributory liability, article 156 of the Copyright Act specifically provides for the liability of intermediaries (such as internet service providers) whose services are used for the purpose of infringing a protected work.

Available remedies

39 | What remedies are available against a copyright infringer?

The main remedy under Italian copyright law is a permanent injunction against the infringer (article 156 of the Copyright Act). Other available remedies are:

- delivery up or destruction of the infringing products or materials (article 158);
- seizure or description of infringing products or materials (article 161);
- withdrawal or recall of the infringing goods from the market (article 158); and
- publication of the decision in the press or on the internet (article 166).

Limitation period

40 | Is there a time limit for seeking remedies?

Under Italian law, it is possible to enforce rights within the general duration of the single copyright. That said, for seeking remedies such as an interim injunction or seizure, Italian case law requires the existence of *periculum in mora*, which means that the applicant will suffer serious and irreparable damage if the infringement is not immediately stopped.

Monetary damages

41 | Are monetary damages available for copyright infringement?

According to article 158 of the Copyright Act, monetary damages are granted to the copyright holder. The award of damages can be calculated by the court based on the infringer's profit or on the 'cost of consent', or both. The cost of consent is a virtual royalty that would have been applied if the infringer had obtained a regular licence.

Moreover, if an injunction is ordered, the court can also provide for a penalty to be paid for further infringements carried out in violation of the order.

In terms of recovering damages, according to article 2947 of the Italian Civil Code, a claimant can only recover damages for the five years preceding the beginning of the action.

Attorneys' fees and costs

42 | Can attorneys' fees and costs be claimed in an action for copyright infringement?

Yes, attorneys' fees and costs can be claimed. The general principle is that the losing party bears the costs of the action as well as attorneys' fees (article 91 of the Italian Code of Civil Procedure).

Criminal enforcement

43 | Are there criminal copyright provisions? What are they?

Specific cases where the copyright infringement constitutes a crime under Italian criminal law provisions include the following.

- The wilful reproduction, transcription, offer for sale, performance, broadcast communication to the public or distribution of a third party's work without consent, or publishing online a copyrighted work, is punishable with a fine. If the infringing acts concern a work not intended for publication, or they constitute infringement of the author's right of paternity or of integrity of the work, the punishment may include imprisonment (article 171 of the Copyright Act).
- The unlawful reproduction, import or distribution in Italy of computer programs or databases for profitable purposes can be punished by imprisonment and a fine (article 171-bis).
- Reproduction, broadcasting or disseminating of a work intended for television or cinematographic distribution, or in cases of offering for sale or hire recordings of musical, cinematographic or audiovisual works, literary, dramatic, scientific, musical or multimedia works (article 171-ter), can be punished by imprisonment and a fine.

Online infringement

44 | Are there any specific liabilities, remedies or defences for online copyright infringement?

According to Resolution No. 490/2018 of the Italian Communications Regulatory Authority (AGCOM), there is a particular procedure that can be used for removing copyright infringing material from the internet.

It is also possible to apply for an interim procedure before AGCOM, basing the claim on the existence of an infringement and the serious risk of irreparable damage where a decision is not immediately taken.

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Nicoletta Galizia

ngalizia@jacobacci-law.com

Corso Emilia, 8
10152 Turin
Italy
Tel: +39 011 241 30 87
www.jacobacci-law.com

Prevention measures

45 | How may copyright infringement be prevented (including, for example, customs enforcement measures and any technological notable developments)?

According to Regulation (EU) No. 608/2013 concerning customs enforcement of intellectual property rights, customs authorities must suspend the release of an imported good if they suspect that it may infringe an intellectual property right, including copyright.

RELATIONSHIP TO FOREIGN RIGHTS

International conventions

46 | Which international copyright conventions does your country belong to?

Italy belongs to the following conventions:

- the Berne Convention for the Protection of Literary and Artistic works, ratified by Law 399/1978;
- the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations;
- the World Intellectual Property Organization (WIPO) Copyright Treaty;
- the WIPO Performances and Phonograms Treaty.

47 | What obligations are imposed by your country's membership of international copyright conventions?

EU and international law prevail over Italian legislation.

UPDATE AND TRENDS

Key developments of the past year

48 | Are there any emerging trends or hot topics in copyright regulation in your jurisdiction? Has there been any new copyright legislation passed or proposed within the last 12 months?

Given the dramatic impact of covid-19 on the cultural industry, the Italian Chapter of the Creative Commons Global Network (CC Italy) has recently appealed to EU member states to implement article 14 of the Digital Single Market Directive (Directive (EU) 2019/790), which allows the free reproduction of a work in the public domain unless such reproduction can be protected itself according to copyright law. This

would encourage the widespread adoption by cultural institutions of open licences for free reuse – including commercial use – of the images of cultural heritage in the public domain. According to CC Italy, such free reuse would contribute to the relaunch of the tourism and cultural industry, and would enable the cultural institutions adopting such provisions to gain a real advantage in terms of publicity, number of tourists and attracting investments.

Coronavirus

49 | What emergency legislation, relief programmes and other initiatives specific to your practice area has your state implemented to address the pandemic? Have any existing government programmes, laws or regulations been amended to address these concerns? What best practices are advisable for clients?

The Italian government adopted many financial measures to support the cultural sector in response to the pandemic, as the economic impact on this sector was severe (eg, Ministry of Culture Decree No. 107 of 3 March 2021).

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