

Intellectual property

ECORFAN-México, S.C.



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Intellectual property

What is the Intellectual property?

INTELLECTUAL RIGHT:

"Set of rules that regulate the prerogatives and benefits that the laws recognize and establish in favor of authors and their successors in the creation of artistic, scientific, industrial and commercial works".

PROPIEDAD INTELECTUAL



PROPIEDAD

INDUSTRIAL

- Creaciones Industriales
- Signos Distintivos
 - ✓ Campo de la industria y del comercio
 - ✓ Medios diferenciadores de establecimientos, mercancías y servicios



DERECHO

DE AUTOR

- Derechos De Autor
- Derechos Conexos
- Reservas de Derechos
- Culturas Populares
- Símbolos Patrios
 - ✓ Satisfacción de sentimientos estéticos
 - ✓ Campo del conocimiento o de la cultura general

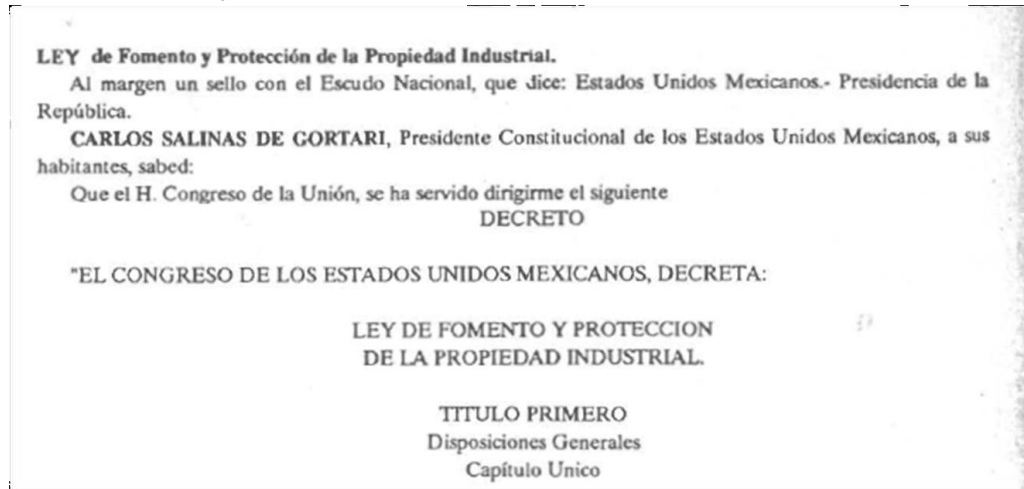


Intellectual property

"Privilege to use exclusive and temporary creations and distinctive signs of products, establishments and services."

LAW ON INDUSTRIAL PROPERTY

Publication in the Official Gazette of June 27, 1991



Regulation of the Industrial Property
Law November 27, 1994



Intellectual property

PATENTS

Industrial Creations

Patents

Utility Models

Industrial Designs

Industrial Secrets

Any human creation that allows to transform the matter or the energy that exists in nature, for its use by man and satisfy its concrete needs, is considered an invention.

Art. 15 LPI



Intellectual property

UTILITY MODELS

Useful models are considered objects, utensils, devices or tools that, as a result of a change in its layout, configuration, structure or form, present a different function with respect to the parts that integrate it or advantages in terms of its usefulness.

Art. 28 LPI

INDUSTRIAL DESIGN

Include:

Industrial drawings, which are any combination of figures, lines or colors that are incorporated into an industrial product for ornamental purposes and that give it a peculiar and own aspect.

The industrial models, constituted by any three-dimensional form that serves as the type or pattern for the manufacture of an industrial product, which gives it a special appearance insofar as it does not involve technical effects.

Art. 31 LPI



Intellectual property

Distinctive signs

Brands

Tradenames

Commercial adverts

Appellation of origin



INDUSTRIAL SECRETS

It is considered an industrial secret to any information of industrial or commercial application kept by a person or entity in a confidential manner, which means obtaining or maintaining a competitive or economic advantage over third parties in the conduct of economic activities and in respect of which it has adopted sufficient means or systems to preserve its confidentiality and restricted access to it.

Art. 82 LPI



Intellectual property

BRANDS

A brand is understood as any visible sign that distinguishes products or services from others of the same species.

Art. 88 LPI

COMMERCIAL ADVERTS

It is considered trade notice to phrases or sentences that are intended to announce to the public business, industrial or service establishments or negotiations, products or services, to distinguish them from their kind.

Art. 100 LPI



Intellectual property

TRADENAME

Commercial name is understood as the sign or denomination that serves to identify a natural or legal person in the exercise of its business activity and that distinguish such development from the other identical or similar.

(<http://www.dpi.bioetica.org/gdpi/nom bre.htm>)

APPELLATION OF ORIGIN

Denomination of Origin is understood as the name of a geographical region of the country that serves to designate a product originating from it, and whose quality or characteristic is due exclusively to the geographical environment, including natural and human factors..

Art. 156 LPI



Intellectual property

Instituto Mexicano de la Propiedad Industrial (IMPI).

Arenal 550, Col. Pueblo Santa
Maria Tepepan, XOCHIMILCO,
Distrito Federal, Mexico, Z.C. 16020
53340700
www.impi.gob.mx

APPELLATION OF ORIGIN

Denomination of Origin is understood as the name of a geographical region of the country that serves to designate a product originating from it, and whose quality or characteristic is due exclusively to the geographical environment, including natural and human factors.

Art. 156 LPI



VEGETABLE VARIETIES

Subdivision of a species that includes a group of individuals with similar characteristics and that is considered stable and homogeneous (Article 2, fraction IX, Federal Law of Plant Varieties).

Ministry of Agriculture, Livestock
and Rural Development, Fisheries and
Food (SAGARPA)



DERECHO DE AUTOR



✓ Definición:

Reconocimiento que hace el Estado a favor de todo creador de obras literarias y artísticas, en virtud del cual otorga su protección para que el autor goce de prerrogativas y privilegios exclusivos de carácter personal y patrimonial.



(art. 11 LFDA.)

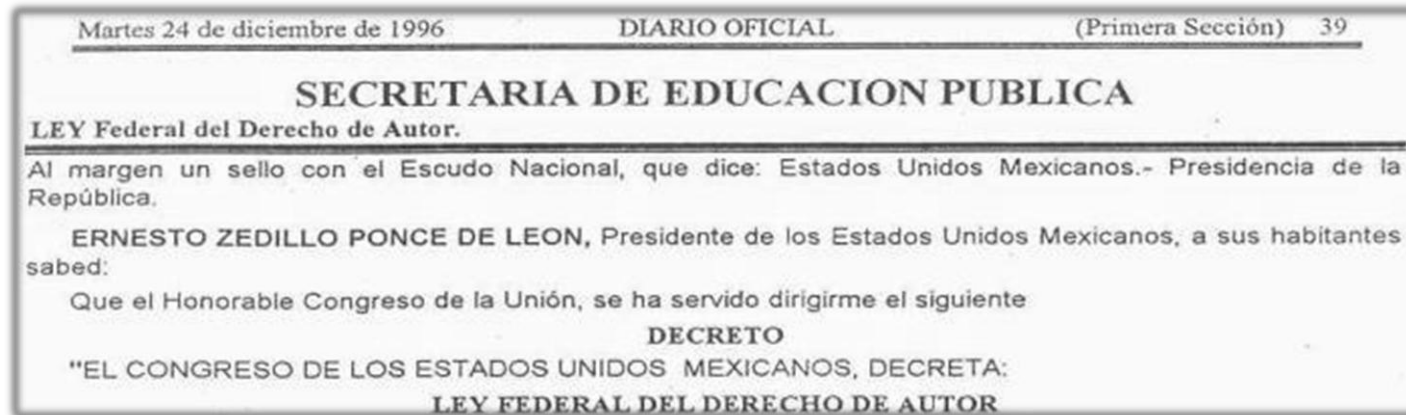
Art. 28 Constitucional



FEDERAL LAW OF COPYRIGHT

Decretos de reformas publicados:

19 de mayo de 1997, 23 de julio de 2003, 27 de enero de 2012, 10 de junio de 2013 y 14 de julio 2014.



Regulation of the Federal Law of Copyright
May 22, 1998, and September 14, 2005



OBJECT OF PROTECTION

✓ PROTECTION OF LITERARY OR ARTISTIC WORKS.

What is a work?

*“es la creación original susceptible de ser divulgada
o reproducida por cualquier forma o medio”*

(art. 3 LFDA)

The formal expression of human
* creativity is protected, not ideas.

✓ CHARACTERISTICS :

- **Originality:** Enough intellectual effort to distinguish it from any other of the same genre.
- **Fixed:** on a material support.

** It does not require registration, nor any formality. (registration is declarative)*

** Independent of merit, fate or mode of expression. (arts. 3 y 5 LFDA)*



AUTHOR

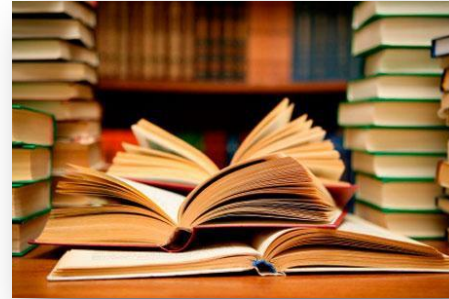
“It is the **physical** person who has created a work literary or artistic”

(Article 12 LFDA)



BRANCHES PROTECTED BY COPYRIGHT

- Literaria;
- Musical, con o sin letra;
- Dramática;
- Danza;
- Pictórica o de dibujo;
- Escultórica y de carácter plástico;
- Caricatura e historieta;
- Arquitectónica;
- Cinematográfica y demás obras audiovisuales;
- Programas de radio y televisión;
- Programas de cómputo;
- Fotográfica;
- Obras de arte aplicado..., y
- Base de datos.
- O.D.-Arreglos, compendios, ampliaciones, traducciones, adaptaciones, paráfrasis, compilaciones, colecciones y trasformaciones.



(arts. 13 y 78 LFDA)



IT IS NOT OBJECT OF PROTECTION

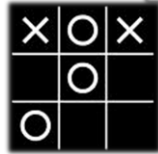
1. Ideas and inventions



2. The industrial use



3. The schemes, games or business



4. Letters, digits or isolated colors **



5. Isolated names or phrases



6. The forms or forms



7. Shields, flags or emblems



8. Laws and regulations **



9. News **



10. Sayings, sayings, legends, facts, calendars



11. and the metric scales



CLASSIFICATION OF WORKS

According to its origin

- a) Primal
- b) Derivatives

According to its author

- a) Known
- b) Anonymous
- c) Pseudonymous



According to your communication

- a) Disclosed
- b) Unpublished
- c) Published

According to the creators involved

- a) Individuals
- b) Of collaboration
- c) Collectives

PUBLISHED WORKS

- ✓ The works protected by the LFDA, which are published, must show :

Rights Reserved or R.R.

©

Name and address of the owner of the economic rights. Year of first publication.

(art. 17 LFDA)



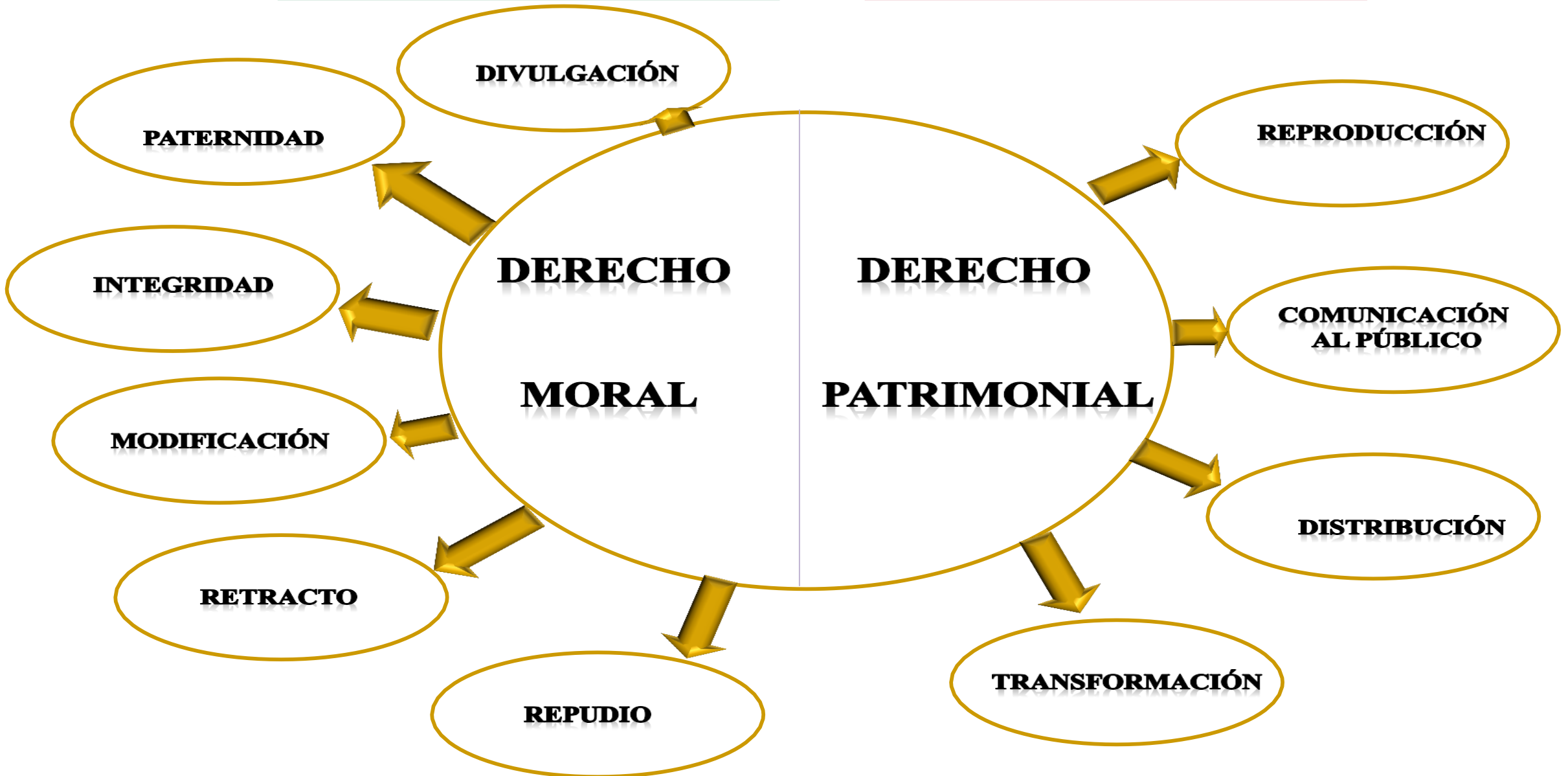
** The omission of these requirements does not imply the loss of the rights of Author.*



CONTENT OF THE COPYRIGHT



CONTENT OF THE COPYRIGHT



CONTENT OF THE COPYRIGHT

Moral rights

Author is the only, primal and perpetual holder of moral rights over the works of his creation.

The moral right is considered attached to the author and is inalienable, imprescriptible, inalienable and unattachable.



CONTENT OF THE COPYRIGHT

Moral rights.

Determine if your work has to be disclosed or keep it unpublished
(Right of Disclosure);

Require recognition of the author's status and provide that its disclosure is made as anonymous or pseudonymous **(Right of Paternity);**

Demand respect for the work against any deformation, mutilation or other modification **(right of integrity);**

Modification of the work;

- Withdraw the work of commerce **(Right of Retraction, Repentance)** and,

- Oppose that a work that is not his creation is attributed to him **(Right of Repudiation or Rejection).**

The heirs may only exercise the powers of disclosure, paternity, integrity and repudiation



CONTENT OF THE COPYRIGHT

Patrimonial Rights.

The owner of the economic right is the author, heir or the acquirer by any title.

The author is the original owner of the patrimonial right and his heirs or assignees by any title will be considered as derivative holders.



PATRIMONIAL RIGHTS OWNERSHIP

Patrimonial Rights.

Reproduction, publication, edition or fixation material (making copies by any means).

Public Communication (representation, recitation, public performance, public exhibition, public access through telecommunication).

Public Broadcasting or Broadcasting (cable, fiber optic, microwave, satellite, any other means)

Distribution (Making available to the public the original or copy by sale, rental or any other form).

Import into the national territory (copies made without authorization)

Disclosure of derivative works (translations, adaptations, arrangements, paraphrasing, compilation)

Any public use.



PATRIMONIAL RIGHTS

Powers and modalities of exploitation are independent of each other.

Use and exploitation of the works generate an economic remuneration -REGALÍAS-

Royalties correspond to the author or owner of the patrimonial right.



PATRIMONIAL RIGHTS OWNERSHIP

Original Holder

- Author

Derivative Headlines

- Heir (Mortis Causa)
- Acquirer for any title (Inter Vivos)



VALIDITY OF PATRIMONIAL RIGHTS

The life of the author and 100 years after his death.

Co-authorship.- 100 years after the death of the last author.

Posthumous Works.- 100 years after being disclosed.

Works made to the official service of the Federation, the Federative Entities and the Municipalities.- 100 years from its disclosure.



TRANSMISSIONS OF RIGHTS

Inter
Vivos Acts



Contract
Agreement

Mortis
Causa Acts

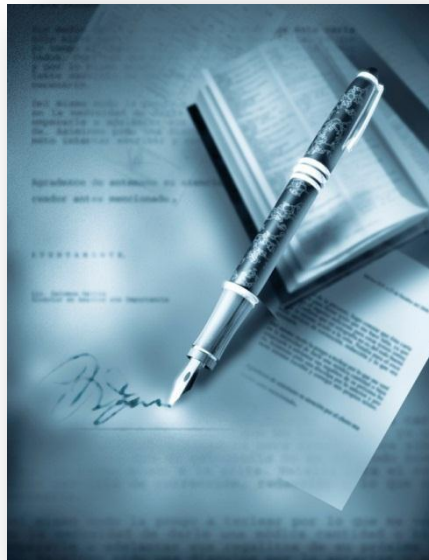


Probate
Provision

TRANSMISSIONS OF RIGHTS

Exclusive or No Use Licenses

Exclusive (Authorization to a third party for a certain type of exploitation within the limits established in the contract).



Cession of rights

Nominated Contracts (Revisión de obra literaria; Edición de obra musical; Representación escénica; Radiodifusión; Producción audiovisual, y Contratos publicitarios.)



TRANSMISSIONS OF RIGHTS

Requirements

Written



Onerosa



Temporary

Exceptions art. 17 RLFDA



Registration in the RPDA for effects against third parties

Art. 30, 32 y 33 LFDA



TRANSMISSIONS OF RIGHTS

This contract must be registered with the Public Registry of Copyright to be effective against third parties.

Format RPDA-03 (In duplicate)

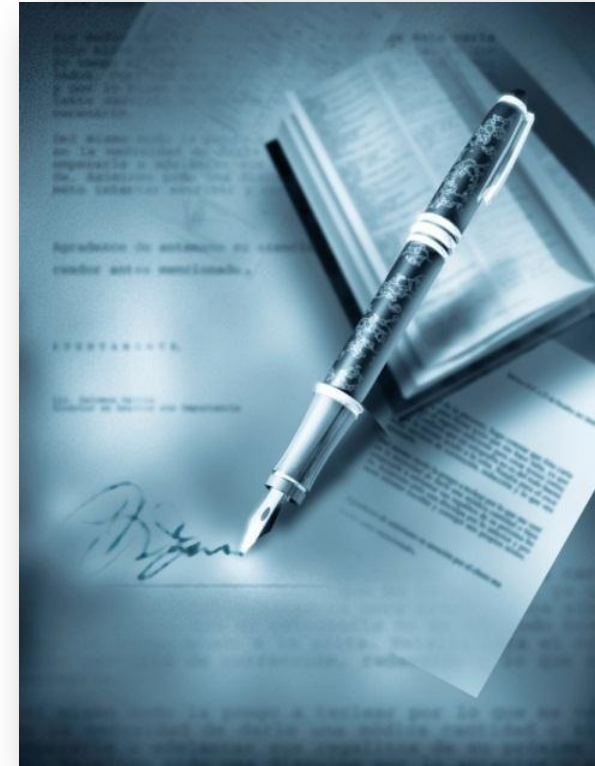
Payment of Rights \$ 1,081.00 or \$ 541 (Help sheet)

Two copies of the Contract with autograph signatures (Originals)



TYPES OF CONTRACTS CONTEMPLATED IN THE LFDA

Literary Work Edition Contract
Musical Work Edition Contract
Scenic Representation Contract
Broadcasting Contract
Audiovisual Production Contract
Advertising Contract



EXCEPTION TO THE ORIGINAL OWNERSHIP

Work commissioned, commissioned work or paid collaboration.

Art. 83 LFDA

Work under labor or contractual relationship.

Art. 84 LFDA

Work done at the service of the State.

Art. 46 RLFDA



LIMITATION ON HERITAGE RIGHTS

Works disclosed
Do not affect the normal
exploitation of the work
Citing the source
Without altering the work



LIMITATION ON HERITAGE RIGHTS

Quotation of texts, simulated and substantial reproduction of the content

Articles, photographs, illustrations and current comments published by the media, if it had not been expressly prohibited

Parts of the work for criticism or research

Private copy, personal use (educational or research institutions)

Copy security or preservation, exhausted, discontinued and in danger of disappearing

Use in a judicial or administrative proceeding

Works visible from public places

Art. 148 LFDA



PUBLIC DOMAIN



The works of the Public Domain can be freely used by any person, with the sole restriction of respecting the moral rights of the respective authors.



RELATED RIGHTS

- ✓ Interpreter artists or executants
- ✓ Editors
- ✓ Producers of phonograms
- ✓ Videogram producers
- ✓ Broadcasting organizations



ARTISTS INTERPRETERS AND EXECUTING

A performer, singer, musician, dancer or other person who represents a role, sings, recites, declares, interprets or performs in any way a literary or artistic work is considered a performer..

75 years



Public communication

Fixation

Reproduction of the fixation of their performances.

These rights are considered exhausted once the performer has authorized the incorporation of their performance or interpretation into a visual, audio or audiovisual fixation provided that users who use such material media for profit, make the corresponding payment.

Art. 118



EDITORS

It is considered book editor, the person who selects or conceives an edition and performs by itself or through third parties its preparation.

Original typographical and layout features Books and periodicals

50 years

- ✓ Direct or indirect reproduction, total or partial of your books, as well as the exploitation of them;
- ✓ Importation of copies of your books made without your authorization, and
- ✓ The first public distribution of the original and each copy of your books by sale or otherwise.

Art. 125

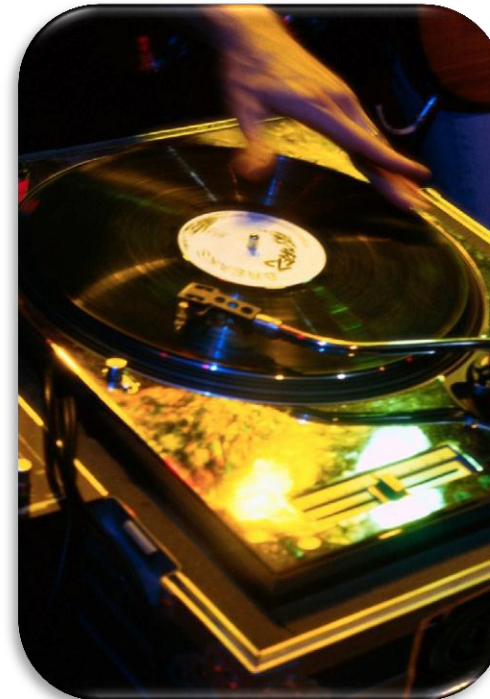


PRODUCER OF PHONOGRAMS

The producer of phonograms is considered to be the natural or legal person under whose initiative and responsibility the sounds of an execution or other sounds are set for the first time -that is, the sound recordings-.

75 years

- ✓ Reproduction and direct or indirect exploitation;
- ✓ Import of copies of the phonogram made without the authorization of the producer;
- ✓ Public distribution of the original and each copy including its distribution through signals or emissions;
- ✓ Adaptation or transformation of the phonogram, and
- ✓ Commercial leasing of the original or a copy of the phonogram, even after the sale thereof.



Art. 131



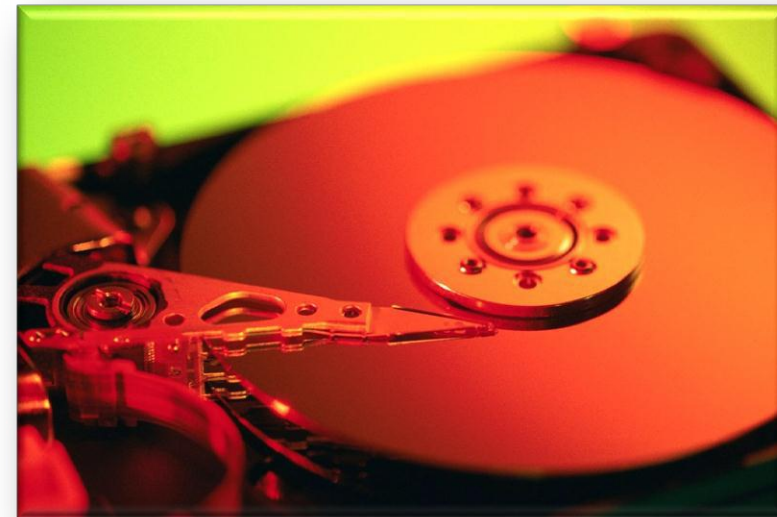
VIDEOGRAM PRODUCER

It is considered producer of videograms, the person who fixes for the first time associated images, with or without incorporated sound, that give a sense of movement, or of a digital representation of such images, whether or not they constitute an audiovisual work.

50 years

- ✓ Videograms
- ✓ Reproduction, distribution and public communication

Art. 138



BROADCASTING ORGANIZATIONS

The broadcasting organization is considered to be the concessioned or licensed entity capable of emitting sound, visual or both signals, susceptible to perception, by a plurality of receiving subjects.

50 years

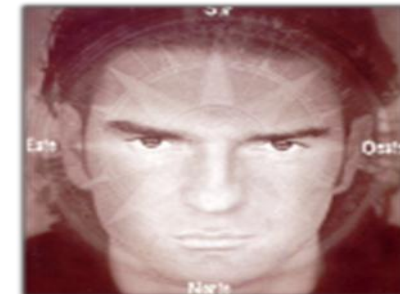
- ✓ Broadcast or transmission
- ✓ Cable, fiber optic, satellite
- ✓ Retransmission
- ✓ Ephemeral recording (hourly reasons) técnicas y
- ✓ Coded and free signals
- ✓ Signals of origin or deferred

Art. 144



RESERVATION OF RIGHTS TO EXCLUSIVE USE

Examples



RESERVATION OF RIGHTS TO EXCLUSIVE USE

DEADLINE FOR THE PROTECTION OF RESERVES OF RIGHTS

Newspaper publication.

Periodic diffusions.

Human or character character, fictitious or symbolic.

People or groups dedicated to artistic activities.

Promotions advertising.

1 renewable year.
From the date of issue of the granting certificate.

5 renewable years.
From the date of issuance of the certificate of grant.

5 non-extendable years.
From the date of issuance of the certificate of grant.



INTERNATIONAL STANDARD BOOK NUMBER

It is the identification that is given to a title or an edition of a title of a particular publisher in accordance with international custom.

- ✓ Books or prints with more than 5 pages;
- ✓ Publications in microforms;
- ✓ Publications in special languages for disabled;
- ✓ Publications in mixed media;
- ✓ Literary works recorded in phonograms;
- ✓ Computer-readable tapes designed to produce lists;
- ✓ Computer programs, and
- ✓ Other similar media including audiovisual.



Art. 95 RLFDA



INTERNATIONAL STANDARD NUMBER FOR PERIODIC PUBLICATIONS - ISSN

Identification given to a title or a publication that appears in successive or periodic parts and that is intended to continue publishing indefinitely.

- ✓ Printed forms or brochures that are published periodically;
- ✓ Periodic publications in microforms;
- ✓ Periodical publications in special languages for the disabled;
- ✓ Periodical publications in mixed media;
- ✓ Periodicals recorded in phonograms;
- ✓ Computer-readable tapes designed to produce lists, as long as they are published periodically, and
- ✓ Other similar means of periodic dissemination, including audiovisual.



Art. 101 RLFDA



IMAGE RIGHT



The portrait of a person can only be used or published, with their express consent.

The authorization to use or publish the portrait may be revoked by the person who granted it, who, if applicable, will be liable for any damages that may be caused by said revocation.

When, in exchange for a remuneration, a person is allowed to be photographed, it is presumed that he has granted his consent and will not have the right to revoke it, provided that it is used in the terms and for the agreed purposes.

Art. 87



IMAGE RIGHT

EXCEPTIONS :

The consent of the person will not be necessary in the case of the portrait of a person who is a minor part of a group or the photograph is taken in a public place and for informational or journalistic purposes.

The rights established for the people portrayed will last 50 years after their death.



POPULAR CULTURES

“Article 157.- The present Law protects literary, artistic, popular or artisanal works, as well as all the original manifestations in their own languages, and the uses, customs and traditions of the pluricultural composition that make up the Mexican State, that do not have an identifiable author.”

- ✓ Against its deformation, made in order to cause demerit to it or damage to the reputation or image of the community or ethnic group to which they belong
- ✓ Free the use of literary, artistic, popular art or craft, provided that they are not contravene those of the LFDA.
- ✓ For its use must be mentioned the community or ethnic group, or in its case the region of the Mexican Republic of which it is proper



POPULAR CULTURES

- ✓ Article 229 in section XIII, states as a violation of Copyright Law the fix, represent, publish, make any communication or use in any way a literary and artistic work, protected under Chapter III, without mentioning the community or ethnic group, or in its case the region of the Mexican Republic of which it is proper.
- ✓ Initiation of legal defense actions corresponds to the ethnic groups themselves
- ✓ National Copyright Institute is coadyuvante



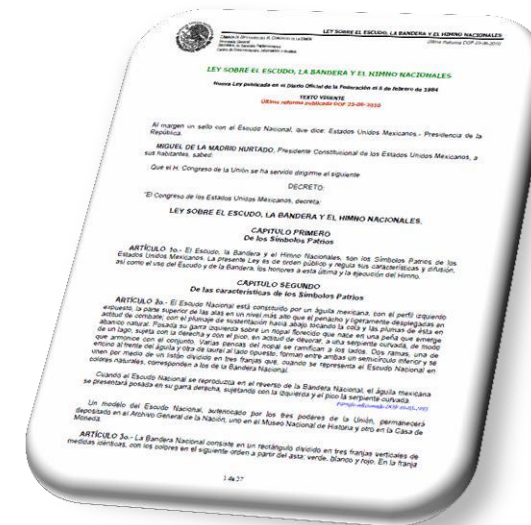
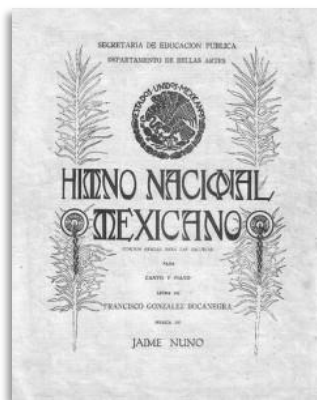
Examples of this kind of works:
Folk songs
Music or dances and dances
instrumental
The various rites of a town



PATRIOTIC SYMBOLS

Use regulated by the Law on the Coat of Arms,
National Flag and Anthem.

The Mexican State is the holder of moral rights
over national symbols.



Art. 155 y 156 LFDA
Art. 47 RLFDA



Work Registry before Public Registry of Copyright

Work registration:

1. It is necessary to fill out the RPDA-01 "Request for Work Registration" form in duplicate, http://www.indautor.gob.mx/formatos/registro/registro_obras.html
2. Make a payment of rights corresponding to \$ 206 (two hundred and six pesos 00/100 M.N.) for each of the procedures.
3. Submit two copies of the work.
 - * Full Source Code and if you have the executable append it.

*Address of the Public Registry of Copyright

* Federal Delegations of the SEP

"The certificate of work registration only establishes a presumption iuris tantum on the copyright of the literary or artistic work."



COMPETENT AUTHORITY

National Institute of Copyright (INDAUTOR)

Puebla 143, Col. Roma Norte
Del. Cuauhtemoc,
Mexico City, Mexico, C.P. 06700
36018000

www.indautor.sep.gob.mx



Thank You Very Much

