

# HIGH COUNCIL FOR LITERARY AND ARTISTIC PROPERTY

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## 3D PRINTING AND COPYRIGHT: AVERTING THREATS AND SEIZING OPPORTUNITIES

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### Summary

3D printing is a form of technology that first appeared in the 1980's in industry and has now become accessible to the general public. However, currently, the spread of 3D printers in households is still marginal and should remain small in the medium-term given the constraints on materials accessible to individuals.

Conversely, the growth of remote printing services, sometimes combined with a platform to exchange 3D files online, makes it possible for everyone to print an object in 3D of a far higher quality than for a base range printer. The spread of 3D printers in teaching establishments and collaborative work spaces (Fab Labs) also fosters access to this type of technology.

**To date, mainstreaming 3D printing does not appear to create a massive problem of copyright violation**, which is the subject of the present report. Like online printing services, Fab Lab clients are largely professionals, particularly designers, who use this technique to produce objects in limited editions as part of their creative process and the proportion of those using online platforms to exchange 3D files and reproduce a work protected by copyright is low. **This risk of counterfeiting mainly affects works of visual art.**

**Furthermore, applying general principles of copyright law now makes it possible, in principle, to sanction counterfeiting by 3D printing.** Just as with printing a piece of work in 3D, scanning it, or even putting files representing a protected piece of work online or downloading them, all constitute acts of reproduction or representation that, in principle, require authorisation from the author. Exceptions to this principle are nevertheless likely to be applied, especially the exception for making private copies when an individual produces a print of the author's material from a legal original for private purposes. By contrast, as French case law stands, this exception does not appear to apply to individuals making 3D prints using machines belonging to a third party, like a Fab Lab, or a remote printing service. Finally, in all cases, the "moral right" of the author still always applies and prevents the work from being altered, either by amending the 3D file, or even due to poor printing quality.

**In the short and medium-term, the main challenge is to get professional intermediaries more closely involved in terms of copyright.** This firstly applies to **online 3D file exchange platforms**, which consider that they benefit from a hosting status derived from the Directive of 8 June 2000 on electronic trading. This limits their responsibility, although they no longer meet this criteria, at least, when performing an active role that comes with knowing about or checking stored files. Given that the tenuous dividing line, the law must be clarified on the subject, in line with recommendations from the CSPLA<sup>1</sup> report issued in November 2015 on guidelines for directives on e-commerce and copyright<sup>2</sup>. This also applies to **3D scanning and software services, as well as to 3D printing operators**, which should systematically display an informative plea to comply with intellectual property and include components in 3D files to make them traceable.

With the support of the National Committee against Counterfeiting (CNAC), the Ministries of Culture and of Industry should also encourage rights-holders **in the fields of literary and artistic property and industrial property** to work with skilled laboratories and manufacturers to **devise technical measures to protect these rights on 3D scanners and printers.** This would ultimately restrict the counterfeiting of works and, more generally, protected objects.

To effectively prevent counterfeiting, it is also vital that a **legal 3D printing offer** develops so that individuals wanting

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1 High Council for Literary and Artistic Property (*Conseil Supérieur de la Propriété Littéraire et Artistique*).

2 Report by the CSPLA to link directives 2000/31 "E-commerce" and report 2001/29 on "the Information Society" (November 2015), written by Mr Pierre Sirinelli, President of the Mission, and Mrs Josée-Anne Benazeraf and Mrs Alexandra Bensamoun, Vice-Presidents of the Mission:

<http://www.culturecommunication.gouv.fr/Politiques-ministerielles/Propriete-litteraire-et-artistique/Conseil-superieur-de-la-propriete-litteraire-et-artistique/Travaux/Missions/Mission-du-CSPLA-sur-l-articulation-des-directives-2000-31-et-2001-29>

to make a print of a particular piece of work can do this without infringing the law and by ensuring that the author is adequately compensated. It would be useful from this standpoint that rights management companies work more closely with file exchange platforms and manage to secure conditions for using files that safeguard the authors' rights and interests.

Finally, if the CSPLA considers that **a legislative response is premature at this stage**, we should remain vigilant about new technological developments or innovative affordable models that, in a few years, will certainly make it possible for professionals and private individuals to easily make good quality 3D copies of protected works at a reasonable price. This would mainly be in the field of visual art, or to make moulds that facilitate counterfeiting.

As such, although copies produced by private individuals without authorisation from the authors should generate significant losses for the latter **in the long-term**, provisions for fair compensation should be made for them, either as part of a **remuneration for private copies**, or as part of a **reprographic licence**, in line with the practices of other European countries for conventional printers.