Copyright

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NATIONAL LEGISLATION

UNITED KINGDOM

The Copyright (International Conventions) (Amendment No. 3) Order 1966

(No. 1409, of November 11, 1966, coming into force on November 18, 1966)

Her Majesty, in exercise of the powers conferred upon Her by sections 31, 32 and 47 of the Copyright Act 1956 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:

1. — The Copyright (International Conventions) Order 1964 [1]) (hereinafter referred to as " the principal Order "), as amended [2]), shall be further amended —

(i) by adding a reference to Venezuela in Part 2 of Schedule 1 thereto (which names the countries party to the Universal Copyright Convention) and in Schedule 2 thereto (which names certain countries who are not members of the Berne Copyright Union but who are parties to the Universal Copyright Convention) and a related reference to 18th November 1966 in the list of dates in column 2 of the said Schedule 2;

(ii) by adding a reference to the Federal Republic of Germany (and *Land* Berlin) in Schedules 5 and 6 (which name the countries whose broadcasting organisations are afforded copyright protection in the United Kingdom in relation to their sound and television broadcasts respectively) and a related reference to 18th November 1966 in the list of dates in those two Schedules.

2. — (1) The provisions of Articles 1 (i) and 3 of this Order shall extend to all the countries mentioned in the Schedule hereto (being the countries to which Part I of the principal Order has been extended).

(2) The provisions of Article 1 (ii) of this Order shall extend to Gibraltar (to which Part II of the principal Order has been extended).

[1]) See *Le Droit d'Auteur (Copyright)*, 1964, p. 150.

[2]) *Ibid.*, 1964, p. 184; *Copyright*, 1965, pp. 40, 240 and 241; 1966, pp. 93, 187 and 247.

3. — (1) The Interpretation Act 1889 shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

(2) This Order may be cited as the Copyright (International Conventions) (Amendment No. 3) Order 1966 and shall come into operation on 18th November 1966.

SCHEDULE

Countries to which the Order [other than Article 1 (ii) thereof] extends

Bahama Islands	Isle of Man
Bermuda	Mauritius
British Honduras	Montserrat
Cayman Islands	Seychelles
Falkland Islands and its Dependencies	St. Helena and its Dependencies
Fiji	St. Lucia
Gibraltar	Virgin Islands
Grenada	

EXPLANATORY NOTE

(This Note is not part of the Order)

This Order further amends the Copyright (International Conventions) Order 1964.

It takes account of the accession by Venezuela to the Universal Copyright Convention [Article 1 (i)] and of the ratification by the Federal Republic of Germany of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations [Article 1 (ii)].

Article 2 (1) of the Order extends its provisions [other than those of Article 1 (ii)] to the dependent countries of the Commonwealth where the Copyright Act 1956 is law. Article 2 (2) extends the provisions of Article 1 (ii) of the Order to Gibraltar.

CORRESPONDENCE

Letter from Japan

Yoshio NOMURA
Member of the Government Copyright Council

INTERNATIONAL ACTIVITIES

International Writers Guild (IWG)

(First World Congress, Los Angeles, October 10-16, 1966)

A new international non-governmental organization, the International Writers Guild, formed in October, 1964, held its first World Congress in Los Angeles (USA), from October 10 to 16, 1966. Up to now, it was only the Executive Committee of this organization that had met [1]). The International Writers Guild, whose original founders were the writers organizations of Great Britain, the United States and Yugoslavia, consists of autonomous national associations which represent screen, television and radio writers. Its aims are to maintain and support the writer's responsibility to the peoples, ensure that he receives a fair share of the rewards of his own achievement and that his moral and material interests are safeguarded throughout the world. Besides being an international craft organization, the International Writers Guild is founded on the belief that the free exchange of ideas between writers of different countries and their co-operation in transmitting these ideas through films, television and radio to audiences throughout the world will lead to greater understanding, tolerance and ultimately to universal peace.

The first World Congress held its sittings at the center of the Writers Guild of America (West). The delegates of national associations, members of the International Writers Guild, of the following countries took part in it: Australia, Belgium, Canada, Czechoslovakia, Denmark, Finland, France, Great Britain, Israel, Japan, Netherlands, Sweden, United States of America, and Yugoslavia. The national association of the USSR had delegated its observers; the International Confederation of Societies of Authors and Composers (CISAC) and the International Federation of Actors (IFA) had done the same.

Invited in the capacity of observers, BIRPI was represented by Mr. Claude Masouyé, Counsellor, Head of the Copyright Division, and Mr. Melville B. Nimmer, Professor of law at the University of California, Los Angeles, consultant of BIRPI; and Unesco by Mr. Gérard Bolla, Head of the Bureau of Personnel.

The agenda included the examination of a certain number of professional or guild problems: co-production; translation rights; production costs; quotas; proportion of national/foreign production; censorship; various provisions to be inserted in agreements between writers and producers.

It included also the study of the proposals for the revision of the Berne Convention concerning the film copyright system and the rules provided for in favour of developing countries. In this respect, the International Writers Guild, having heard the report presented by the Chairman of its International Copyright Committee, expressed the following opinion:

The First Congress of the International Writers Guild, meeting in Hollywood on October 10-16, 1966,

Having examined the new proposals for the revision of the Berne Convention,

(a) *about the question of cinematographic and television works*

(Article 14, paragraphs 4 to 7, and Article 2, paragraph 2)

Establishes the fact that the interpretative rule of contracts (Article 14, paragraph 4) which replaces the former presumption of assignment has, in effect, the same meaning, i. e., the writers (even if it is no longer presumed that they have transferred all their rights) lose the right to prevent the exploitation of their work, in any way, whatever their contract may be, except in case of an agreement clearly to the contrary;

[1]) See *Copyright*, 1965, p. 247.

Remarks that paragraphs 5 and 7 of Article 14 contain only purely hypothetical possibilities of choice while paragraph 6 simply confirms the anomaly against which screenwriters have many times protested — under which only composers reserve the rights in their works which rightfully all the authors should be able to retain;

Observes that paragraph 2 of Article 2 still proposes that television works should come under the same rules as cinematography — with only the purely illusory reservation that these works must be fixed in some material form which is the case with respect to virtually all telecasts;

Reaffirms forcefully that the proposed modifications which have the effect of diminishing the individual and collective protections of writers and placing the film producers and, above all, the radio and television companies, in a privileged legal position without any justification, are contrary at the same time to the spirit and vocation of the Berne Convention;

(b) *about the question of developing countries* (the former Article 25bis which has now become a Protocol Regarding Developing Countries)

Regrets that the apparent concession granted to writers by substituting a special protocol for the former Article 25bis is obviously illusory for this protocol forms an integral part of the Convention and must be obligatorily ratified at the same time;

Establishes that the benefits of the protocol, just as earlier those of Article 25bis, can always be claimed by all countries which may invoke their " cultural " needs and can pretend to be " developing ";

Remarks that the restrictions for " educational " purposes authorized by paragraph *(e)* of the protocol allow States which so desire to abolish copyright or to establish legal licences for purposes of exploiting creative work in any form;

Observes that the least objectionable provisions of the protocol are no doubt those contained in paragraphs *(a)* and *(b)* relating to translations and the term of copyright which are verbatim repetitions of the Universal Copyright Convention's Articles IV and V;

And therefore raises the question (while recognizing the necessity of providing developing countries with cultural aid which these countries need, but at the same time being conscious of the grave danger which the introduction of such facultative restrictions into the Berne Convention presents to all our rights):

(1) whether the equitable solution would not demand that the Governments of the " developed " countries, propagators of this culture, should take upon themselves the burden of such aid, by paying the writers themselves rather than, by accepting the restriction of copyright protection — providing " free help " of which the writers would pay the cost;

(2) if it would not be more logical that the developing countries should be referred to membership in the Universal Copyright Convention (which Unesco set up in 1952 for this very purpose) and whether the instrument upon which the essential foundations of the protection of creative works rests should be conserved intact and if need be, with fewer participating countries.

At the close of its deliberations, the Congress elected the Executive Committee and various other committees. Mr. James R. Webb (USA) was re-elected President of the International Writers Guild. Mr. Henry Comor (Canada), Miss Evelyn Burkey (USA). Mr. Kurt Haulrig (Denmark), Mr. Roger Fernay (France), Mr. Howard Clewes (Great Britain), and Mr. Radoš Novaković (Yugoslavia) were elected Vice-Presidents. Furthermore, three international secretariats (London, Belgrade and New York) were created and assumed by Mr. Eric Paice, Mr. Oto Deneš and Mrs. Manya Starr respectively.

The next Congress will take place either in Yugoslavia or in Japan.

The Los Angeles meeting was preceded by a Conference organized in New York, from October 6 to 8, by the International Writers Guild under the auspices of the International Film and Television Council whose President is Mr. John Maddison. This Conference on the international understanding through films and broadcasting discussed a certain number of problems of a general nature, such as the free flow of ideas, film and broadcasting as a cultural influence, and the impact of the media on history. Its work was attended by the representatives of the United Nations.

NEWS ITEMS

GERMANY (Federal Republic)

Max Planck Institute for Foreign and International Law of Patents, Copyright and Competition, Munich [1])

The Max Planck Society for the Promotion of the Sciences has established in Munich a Max Planck Institute for Foreign and International Law of Patents, Copyright and Competition which began its activities on March 1, 1966 *(Max-Planck-Institut für ausländisches und internationales Patent-, Urheber- und Wettbewerbsrecht in München).* Professor Eugen Ulmer has been appointed Director of this Institute. His closest collaborator is Professor Friedrich-Karl Beier.

This constitutes an important transformation in the structure of the previously existing Institute of the Munich University, which was founded by Professor Eduard Reimer and then placed under the direction of Professor Ulmer and Professor Beier following Professor Reimer's death in 1957. It will continue to function, under the same direction, as a university institute for industrial property and copyright questions relating to German law. The new Institute, however, will take over matters of foreign and international law and comparative law. Its inclusion among the ranks of the various research institutes of the Max Planck Society will not only enable the previous work to be continued on a broader basis, but also new research activities to be initiated.

The main purpose of the Institute's work consists of systematic research of international and foreign law based on the study and analysis of the legal sources, the judicial reports and the literature on the subject. Particular attention will therefore be devoted to expanding the existing stock of literature in order to form a comprehensive library. Work is already going ahead on documentation that will comprise all the relevant material and make it accessible for use in research, theory and practice.

In the field of international law, the Institute will analyze the treaty law, in particular the Paris Convention for the Protection of Industrial Property and the special Agreements connected therewith, the Berne Convention for the Protection of Literary and Artistic Works, and the Universal Copyright Convention. This work can only be prolific if it is combined with the study of national legislation and case law in the member countries. It is also intended to examine the questions relating to the development of treaty law on the basis of comparative law studies.

A further function will be to collaborate, in connection with the aims of the Council of Europe and more particularly of the European Economic Community, to the harmonization of legal systems within Europe. The work already done by the University Institute in this field will be continued: At the request of the Commission of the European Economic Community, the Institute elaborates a report on the law of unfair competition in the member States of the E. E. C. Of this report, the comparative study (volume I) and the country study on Italy (volume V) have already appeared, while those on Belgium, Luxembourg, the Netherlands, Germany and France are due to be published shortly.

There are other tasks awaiting the Institute as a result of the new questions arising at the international level. These include examination and description of the legal situation in the East European countries, with particular reference to the protection of inventors, as well as the special problems of industrial property and copyright in developing countries.

In addition, both the basic aspects of industrial property and copyright and special problems will be dealt with by comparative law methods. The basic questions involved include, in particular, the relationship of patent protection to the economic system, and especially to Anti-Trust law, as well as the principle of territoriality in trademark law. Special projects on which the Institute is at present engaged include legal protection of computer programs, protection of industrial designs, and problems of film and television law.

The Institute hopes to be able to pursue and expand the contacts it has previously maintained both with international offices and organizations and with foreign experts and specialists in the field of industrial property and copyright. In 1967, the Institute will move into a new building offering better working facilities for the members as well as for guests of the Institute, particularly also for guests from abroad.

The Institute will report on the results of its work in its monthly publication, *Gewerblicher Rechtsschutz und Urheberrecht, Internationaler Teil,* and in two series of publications, one in the field of industrial property and the other in the field of copyright.

The provisional address of the Institute is: Munich 2, Zweibrückenstrasse 12.

[1]) BIRPI translation.

OBITUARY

Henry Puget

A high official of the French Government is no more, and his death brings sorrow to all those — and they are many all over the world — whose respect and admiration he had won. Henry Puget, Honorary Counsellor of State, passed away at his Paris home on November 18, 1966, in his seventy-third year.

In intellectual property circles, this man of sterling character who often dominated the diplomatic, governmental and other meetings will not be forgotten so soon. Called upon on several occasions to act as a spokesman of France, Chairman Puget knew, by his authority and his clear vision, how to safeguard the interests which had been confided to his care or the positions which it was his mission to defend. His elocution, the concision of his style, his manner of self-expression admirably bore out the famous dictum of Boileau:

> " What is well conceived is clearly expressed,
> And the right words come happily after."

His flair for writing led him to play a prominent rôle in the drafting of reports, conventions and other international agreements, and in our own particular field he took an important part, at the Diplomatic Conferences of Brussels in 1948 and of Rome in 1961, in the formulation not only of the last revised text of the Berne Convention but of the Rome Convention on neighbouring rights.

These activities, however, were only a modest facet of a career which was brilliant both at the national and international level and which it is difficult to recall without being reminded of Victor Hugo's admirable remark: " Glory, that tardy orb, that serene and somber moon which rises over graves."

Born in 1894 at Toulouse, in Languedoc, from where so many illustrious men have come, Henry Puget finished his university studies as *Agrégé* at the Faculty of Law, Master of Arts, and obtained a diploma from the *Ecole libre des sciences politiques*. In 1921, he entered the Council of State, where he rose through the ranks to the top position of Counsellor of State. He was notably, from 1926 to 1930, principal private secretary to the Minister of Finance and, from 1932 to 1934, permanent under-secretary to the Air Minister. Apart from his administrative career, Henry Puget, who never forgot that " to teach is to learn twice over," was Professor at the *Ecole libre des sciences politiques*, which later became the *Institut d'études politiques* of the University of Paris, where I had the privilege of being his pupil. I remember how he used to open his course of lectures with the words: " I shall certainly expound legal texts to you, but above all I shall seek to make you understand the sequence of events, the chain of facts, the march of life, to evoke persons, to present the pros and cons, to plunge you into reality." Then he would go on to say: " A knowledge of the past is indispensable because it enables us to explain and understand the present, to make out under what conditions the present was born; it also teaches us the relativity of things, it puts us on guard against a belief in permanence." The premises of this teaching attracted many of us students, who in later life were to discover their soundness.

In the full enthusiasm of his educative vocation, Henry Puget was appointed head of the *Centre de recherches administratives* of the National Foundation of Political Science. He was also divisional head at the *Institut de droit comparé* and member of the Executive Committee of the *Institut international des sciences administratives*, where he was chairman of the Scientific Committee.

Moreover, Henry Puget put his remarkable experience in public administrative law to the service of international organizations such as Unesco, the Executive Committee of which passed the following resolution: " Pays tribute to the memory of Mr. Henry Puget who, as Chairman of the Council of Appeal since July 1948, performed his task with exceptional authority, impartiality and humanity and thus made a signal contribution to the development of the case-law governing the international public service."

Henry Puget devoted himself also to the promotion of the arts and to the defence of intellectual property rights. At the national level, he was active as chairman of the Intellectual Property Commission and of the *Caisse des Lettres* and, at the international level, as French delegate to the Permanent Committee of the Berne Union, to the Intergovernmental Copyright Committee, and at the various intellectual property Conferences held since the end of the war.

He played an important part in the administrative and structural reorganization of the Literary and Artistic Property and Industrial Property Unions, which, as he had clearly grasped, were in urgent need of adjustment to contemporary developments in law and international institutions. In this connection, he often suggested ways and means of safeguarding the principles enshrined in the Berne and Paris Conventions.

He was also vice-president of the International Literary and Artistic Association.

In the sphere of urbanization and the arts in his own country, he was associated with the initial work of the Town Planning Committee for the Paris region, of which he was vice-chairman. He was also chairman of the *Comité des sites* of the Seine, member of the *Commission supérieure des sites*, vice-chairman of the *Sauvegarde de l'art français* and administrator of the Touring Club of France.

Lastly, in addition to these main activities of his to which we have devoted only a few lines, Henry Puget wrote several works on administrative law and comparative law, the most recent of which dealt with atomic law.

He was Grand Officer of the Legion of Honour and the holder of many foreign decorations.

It would not be presumptuous to say that the Intellectual Property Unions grouped together in BIRPI bow today before the memory of the Chairman of the Permanent Committee of the Berne Union and pay homage to his qualities and abilities, thanks to which the cause of intellectual rights was so brilliantly championed. Counsellor of State Henry Puget will remain one of the most prominent personalities that have left their mark on the history of those International Unions to which he was so attached.

Claude MASOUYÉ
Counsellor

CALENDAR

Meetings of BIRPI

Date and Place	Title	Object	Invitations to Participate	Observers Invited
January 23 to 30, 1967 New Delhi	East Asian Seminar on Copyright	Discussion of general principles of special interest to East Asian countries in the field of copyright and related rights	All East Asian States Members of the United Nations or of any United Nations Specialized Agency	All other Member States of the Berne Union; United Nations; Unesco; various interested non-governmental Organizations
April 18 to 21, 1967 Geneva	Committee of Experts for the Classification of Goods and Services	To bring up to date the international classification	All Member States of the Nice Union	—
June 12 to July 14, 1967 Stockholm	Intellectual Property Conference of Stockholm, 1967	*(a)* General Revision of the Berne Convention (Copyright) *(b)* Revision of the Paris Convention (Industrial Property) on the question of inventors' certificates *(c)* Revision of the administrative and final clauses of the Berne and Paris Conventions and of the Special Agreements concluded under the latter *(d)* Establishment of a new Organization	*For (a), (b) and (c):* Member States of the various Unions *For (d):* States Members of the United Nations or any of the UN Specialized Agencies	*States:* States not members of the Unions [for *(a)*, *(b)* and *(c)*] *Intergovernmental Organizations:* United Nations; International Labonr Organization; World Health Organization; United Nations Edncational, Scientific and Cultural Organization; General Agreement of Tariffs and Trade; International Institute for the Unification of Private Law; International Olive Oil Council; International Patent Institute; International Vine and Wine Office; African and Malagasy Industrial Property Office; Council of Europe; Latin-American Free Trade Association; Organization of American States *Interested Non-Governmental Organizations*
December 18 to 21, 1967 Geneva	Interunion Coordination Committee (5th Session)	Program and Budget of BIRPI	Belgium, Brazil, Ceylon, Czechoslovakia, Denmark, France, Germany (Fed. Rep.), Hungary, India, Italy, Japan, Mexico, Morocco, Netherlands, Nigeria, Portugal, Rumania, Spain, Sweden, Switzerland, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia	All other Member States of the Paris Union or of the Berne Union
December 18 to 21, 1967 Geneva	Conference of Representatives of the International Union for the Protection of Industrial Property (2nd Session)	Program and Budget for the next three-year period	All Member States of the Paris Union	—
December 18 to 21, 1967 Geneva	Executive Committee of the Conference of Representatives of the Paris Union (3rd Session)	Program and Budget (Paris Union)	Ceylon, Czechoslovakia, France, Germany (Fed. Rep.), Hungary, Italy, Japan, Mexico, Morocco, Netherlands, Nigeria, Portugal, Spain, Sweden, Switzerland, Union of Soviet Socialist Republics, United Kingdom of Great Britain and Northern Ireland, United States of America, Yugoslavia	All other Member States of the Paris Union

Date and Place	Title	Object	Invitations to Participate	Observers Invited
December 18 to 21, 1967 Geneva	Council of the Lisbon Union for the Protection of Appellations of Origin and their International Registration	Annual Meeting	All Member States of the Lisbon Union	All other Member States of the Paris Union

Meetings of Other International Organizations concerned with Intellectual Property

Place	Date	Organization	Title
Paris	January 13 to 15, 1967	International Association for the Protection of Industrial Property (IAPIP)	Conference of Presidents
Strasbourg	March 13 to 17, 1967, and April 3 to 7, 1967	Council of Europe	Working Group of the Committee of Experts on Patents
Basle	March 29 to April 4, 1967	International Literary and Artistic Association (ALAI)	52nd Congress
Montreal	May 13 to 20, 1967	International Chamber of Commerce (ICC)	21st Congress
Helsinki	from August 27, 1967	International Association for the Protection of Industrial Property (IAPIP)	Executive Committee
Stockholm	September 18 to 29, 1967	Committee for International Cooperation in Information Retrieval among Examining Patent Offices (ICIREPAT)	7th Annual Meeting