

Copyright

Review of the
WORLD INTELLECTUAL PROPERTY
ORGANIZATION (WIPO)

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BERNE UNION

Ratifications of the Paris Act (1971) of the Berne Convention

SENEGAL

The Director General of the World Intellectual Property Organization (WIPO) has notified the Governments of member countries of the Berne Union that the Government of the Republic of Senegal deposited, on May 2, 1975, its instrument of ratification of the Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886, as revised at Paris on July 24, 1971.

Pursuant to the provisions of Article 28(2)(c) and (3), the Paris Act (1971) of the Convention will enter into force, with respect to the Republic of Senegal, three months after the date of this notification, that is, on August 12, 1975.

Berne Notification No. 73, of May 12, 1975.

TUNISIA

The Director General of the World Intellectual Property Organization (WIPO) has notified the Governments of member countries of the Berne Union that the Government of the Republic of Tunisia deposited, on May 14, 1975, its instrument of ratification of the Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886, as revised at Paris on July 24, 1971.

This instrument of ratification contains the following declaration:

“The Convention has been ratified in accordance with the constitutional processes of Tunisia with the following reservation relating to Article 33(1): Any dispute may be

brought before the International Court of Justice only with the consent of all the parties to the dispute.” (*Translation*)

Furthermore, the Government of the Republic of Tunisia notified the Director General of WIPO that, pursuant to Article I of the Appendix to the Convention, it avails itself of the faculties provided for in Articles II and III of the said Appendix.

Pursuant to the provisions of Article 28(2)(c) and (3), the Paris Act (1971) of the Convention will enter into force, with respect to the Republic of Tunisia, three months after the date of this notification, that is, on August 16, 1975.

Berne Notification No. 74, of May 16, 1975.

YUGOSLAVIA

The Director General of the World Intellectual Property Organization (WIPO) has notified the Governments of member countries of the Berne Union that the Government of the Socialist Federal Republic of Yugoslavia deposited, on May 30, 1975, its instrument of ratification of the Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886, as revised at Paris on July 24, 1971.

This instrument of ratification was accompanied by the following declaration:

“The Government of the Socialist Federal Republic of Yugoslavia, in conformity with Article 30(2)(a) of the Convention, declares that it retains the benefits of the res-

ervation it has previously formulated in regard to Article 8 of the Berne Convention revised in Brussels in 1948 concerning the translation of foreign works into the national languages of Yugoslavia.” (*Original*)

Pursuant to the provisions of Article 28(2)(c) and (3), the Paris Act (1971) of the Convention will enter into force, with respect to the Socialist Federal Republic of Yugoslavia, three months after the date of this notification, that is, on September 2, 1975.

Berne Notification No. 75, of June 2, 1975.

NATIONAL LEGISLATION

AUSTRALIA

Copyright Tribunal (Procedure) Regulations

(No. 59, of April 24, 1969) *

PART I Preliminary

Citation

1. — These Regulations may be cited as the Copyright Tribunal (Procedure) Regulations.

Commencement

2. — These Regulations shall come into operation on the date fixed by Proclamation under section 2 of the Act ¹.

Parts

3. — These Regulations are divided into Parts, as follows: —

Part I. — Preliminary (Regulations 1-4).

Part II. — General Provisions (Regulations 5-15).

Part III. — Inquiries by the Tribunal (Regulation 16).

Part IV. — Applications and References to the Tribunal (Regulations 17-35).

Part V. — Ancillary Matters (Regulations 36-43).

Part VI. — Miscellaneous (Regulations 44-48).

Interpretation

4. — (1) In these Regulations, unless the contrary intention appears —

“address for service”, in relation to a person, means an address in Australia at which documents may be served on the person;

“newspaper” includes the *Gazette*;

“person” includes an organization within the meaning of Part VI of the Act;

“proceeding” means a proceeding before the Tribunal;

“sealed” means sealed with the seal of the Tribunal;

“the Act” means the Copyright Act 1968;

“the relevant file number”, in relation to a proceeding, means the file number caused by the Secretary to be allotted to the proceeding in pursuance of regulation 8 of these Regulations;

“the Secretary” means the Secretary to the Tribunal.

(2) Where provision is made by the Act or these Regulations specifying the persons who are to be the parties to a proceeding, those persons shall be deemed, for the purposes of these Regulations, to be parties to any ancillary application made under these Regulations in connexion with that proceeding.

(3) Without limiting the application in relation to these Regulations of paragraph (a) of section 46 of the Acts Interpretation Act 1901-1966, an expression used in any of these Regulations that —

(a) is also used in a section of the Act for the purposes of which, or of a provision of which, that regulation is made; and

(b) has, in that section, a defined or other specified meaning,

has the same meaning in that regulation.

PART II General Provisions

Seal of Tribunal

5. — (1) There shall be a seal of the Tribunal, which shall be of a design approved by the President and shall include —

(a) the Coat of Arms of the Commonwealth, that is to say the armorial ensigns and supporters granted to the Commonwealth by Royal Warrant dated the nineteenth day of September, One thousand nine hundred and twelve; and

(b) the words “Copyright Tribunal”.

(2) The Secretary shall keep a device for affixing the seal of the Tribunal to a document.

(3) Subject to this regulation, the seal of the Tribunal shall be affixed by or with the authority of the Secretary to such documents as are required by these Regulations or by a direction of the President or of the Tribunal to be sealed with the seal of the Tribunal.

(4) The Secretary shall also keep a stamp, the design of which shall, as nearly as practicable, be the same as the design of the seal of the Tribunal.

(5) A document to which the seal of the Tribunal is required to be affixed may be stamped with the stamp referred to in the last preceding sub-regulation and when so

* Regulations under the Copyright Act 1968, notified in the *Commonwealth Gazette* on April 28, 1969.

¹ See *Copyright*, 1970, pp. 178, 218, 247 and 267.

stamped, has the same force and effect as if it had been sealed with the seal of the Tribunal.

(6) All courts and all persons acting judicially shall take judicial notice of a seal or stamp referred to in this regulation affixed to, or stamped on, a document and, in the absence of proof to the contrary, shall presume that it was affixed or stamped by proper authority.

Office or offices of Secretary

6. — (1) The Attorney-General shall notify in the *Gazette* —

(a) the address of the office of the Secretary or, if there is more than one such office, the address of each of those offices; and

(b) any change in that address or in any of those addresses.

(2) An office of the Secretary shall be open for business on every day, other than a Saturday or a Sunday or a day that is observed as a holiday in the Public Service of the Commonwealth by virtue of section 76 of the Public Service Act 1922-1968 in the place where the office is situated, at such times as the President directs.

Filing of documents

7. — (1) Subject to this regulation, filing of a document with the Secretary shall be effected by lodging the document at an office of the Secretary at a time when that office is open for business, or by sending the document by post addressed to the Secretary at an office of the Secretary, but the document shall be deemed not to be filed until it is accepted for filing by the Secretary.

(2) The Secretary may refuse to accept a document for filing if the document does not comply with the provisions of these Regulations applicable in relation to the document and shall refuse to accept a document for filing if the prescribed fee has not been paid.

(3) If the Secretary refuses to accept a document for filing, he shall serve notice in writing of the refusal on the person by whom the document was lodged or sent and shall state in the notice the reason for the refusal.

(4) The Secretary shall cause the date on which a document is filed to be written on the document and on any sealed copy of the document.

(5) If the President has directed that, in respect of each document filed with the Secretary that is included in a specified class of documents, a specified number of copies of the document is also to be filed, a person filing a document that is included in that class shall also file that number of copies of the document.

File numbers of proceedings

8. — (1) The Secretary shall cause a file number to be allotted to each proceeding.

(2) The one file number may be allotted to all proceedings that, in the opinion of the Secretary, are related to each other.

Title of proceedings

9. — A document filed with the Secretary, or issued out of an office of the Secretary, in relation to a proceeding shall be intitled in accordance with Form 1 in the First Schedule to these Regulations².

Sealing of documents

10. — Where —

(a) a person is required by or under these Regulations to serve on another person a sealed copy of a document filed with the Secretary; and

(b) a copy of the document is lodged by or on behalf of that person with the Secretary, the Secretary shall cause the document to be sealed and returned to the person by whom it was lodged.

Address for service

11. — (1) A person who files with the Secretary a document instituting, or relating to, a proceeding shall specify in the document an address for service.

(2) The last preceding sub-regulation does not apply in relation to a document filed in connexion with a proceeding if the person filing the document has previously filed a document with the Secretary in connexion with that proceeding specifying such an address.

(3) A person who has, in connexion with a proceeding, filed with the Secretary a document specifying an address for service may at any time file with the Secretary a notice, in writing addressed to the Secretary and signed by or on behalf of the person, specifying a new address for service.

(4) A person filing a notice in accordance with the last preceding sub-regulation shall cause a copy of the notice to be served on every party to the proceeding within seven days after the notice is filed.

(5) A reference in these Regulations to a document specifying an address for service in relation to a person shall, in relation to a person who has filed a notice in accordance with sub-regulation (3) of this regulation, be read as a reference to the notice or, if the person has filed more than one such notice, be read as a reference to the later or latest of those notices.

Service of documents

12. — (1) A document that is required or permitted by or under these Regulations to be served on a person in connexion with a proceeding may be served on the person —

(a) where the person has filed a document with the Secretary specifying an address for service — by delivering the document to the person personally or by leaving the document at, or by sending the document by post addressed to the person at, that address; or

(b) where the person has not filed such a document —
(i) if the person is a corporation — by delivering the document personally to the manager or secretary

² The Schedule is not reproduced in this review.

of the corporation, or, if the corporation has a registered office under a law of a State or Territory of the Commonwealth, by leaving it at that office or by sending it by post addressed to the corporation at that office or, if the corporation does not have such a registered office, by sending it by post addressed to the corporation at its principal place of business in Australia;

- (ii) if the person is an organization other than a corporation — by delivering the document personally to the manager, secretary or other similar officer of the organization or by sending it by post addressed to the organization at its principal place of business in Australia; or
- (iii) in any other case — by delivering the document personally to the person or by sending it by post addressed to the person at the address of the place of living or business of the person last known to the person serving the document.

(2) The Tribunal may make an order directing that service of a document that is required or permitted by or under these Regulations to be served be effected in a manner different from the manner provided by the last preceding sub-regulation or that service of the document be dispensed with.

(3) Proof of the service of any document may be given by means of a statutory declaration.

Signing of documents

13. — Where, in connexion with a proceeding, a person signs a document on behalf of another person, the person signing the document shall state in the document that he is signing the document on behalf of the other person.

Recording of orders of Tribunal

14. — (1) The Secretary shall cause each order of the Tribunal and the date on which it was made to be recorded in a document signed by him.

(2) The Secretary shall cause the original of the document referred to in the last preceding sub-regulation to be filed in the records of the Tribunal.

Notification of orders of Tribunal and reasons therefor

15. — (1) The Tribunal shall, when making an order, state in writing its reasons for making the order.

(2) The Secretary shall cause a copy of the document recording the order and of the reasons of the Tribunal to be served on every party to the application or reference in respect of which the order was made and shall also cause a copy of the document recording the order and of the reasons to be available at each of his offices for public inspection when that office is open for business.

(3) In the last two preceding sub-regulations, "order" does not include an interim order or an order that is made in respect of an application that is ancillary to another proceeding.

(4) The President may, if he thinks fit, direct the Secretary to cause particulars of any order of the Tribunal to be published in such newspaper or newspapers circulating in Australia as the President determines.

(5) Sub-regulations (2) and (4) of this regulation do not apply in relation to an order the operation of which is suspended pending a reference of a question of law to the High Court.

PART III

Inquiries by the Tribunal

Advertisement of intended inquiry by Tribunal into royalty payable in respect of records of works

16. — (1) The President shall fix the time and place for the commencement of an inquiry by the Tribunal under section 148 of the Act.

(2) The Secretary shall cause to be published in such newspaper or newspapers circulating in Australia as the President directs, on such date or dates as the President specifies but not being earlier than three months or later than one month before the time fixed under the last preceding sub-regulation, a notice —

- (a) stating that the Tribunal has been requested by the Attorney-General to hold the inquiry;
- (b) specifying the matter to which the inquiry relates;
- (c) specifying the time and place at which the inquiry is to commence; and
- (d) stating that every person who the Tribunal is satisfied has a substantial interest in the matter to which the inquiry relates will be given an opportunity of presenting a case to the Tribunal.

PART IV

Applications and References to the Tribunal

General provisions relating to applications and references to Tribunal

17. — (1) An application or reference to the Tribunal shall —

- (a) be in writing;
- (b) state the name of the person making the application or reference;
- (c) state the general nature of the application or reference and specify the provision of the Act or of these Regulations under which the application or reference is made;
- (d) subject to the next succeeding sub-regulation, include such other matters as are required by these Regulations to be included in an application or reference made under that provision;
- (e) be signed by or on behalf of the person making the application or reference; and
- (f) be filed with the Secretary.

(2) A person desiring to make an application or reference to the Tribunal may, with the leave of the President, omit from the application or reference such of the particulars

required by these Regulations to be included in the application or reference as the President specifies but, if the President, when so granting leave, directs that other particulars specified by him are to be included in the application or reference in lieu of the omitted particulars, the person shall include those other particulars in the application or reference.

(3) Subject to these Regulations, a person making an application or reference to the Tribunal shall cause notice of the making of the application or reference, together with a sealed copy of the application or reference, to be served, within seven days after the application or reference is filed with the Secretary, on every other person who, by virtue of the Act or of these Regulations, is a party to the application or reference other than a person who became a party after the application or reference was filed.

(4) A notice of the making of an application or reference shall —

- (a) be in writing;
- (b) be addressed to the person on whom it is served;
- (c) inform the person on whom it is served that the application or reference to which the notice relates has been made to the Tribunal and that that person is, by virtue of the Act or these Regulations, as the case may be, a party to the application or reference; and
- (d) be signed by or on behalf of the person making the application or reference.

(5) The President may, and shall if so requested by a party to the application or reference, fix a time and place for a preliminary hearing of the application or reference (other than an application to which regulation 34 or regulation 35 of these Regulations applies or an application or reference in respect of which the Tribunal decides not to have a hearing) for the purpose of dealing with such matters connected with the application or reference as the President directs, and the Secretary shall cause notice of the time and place so fixed to be served on the parties to the application or reference and on the persons (if any) who have applied to the Tribunal to be made parties to the application or reference.

(6) A request for the fixing of a time and place for a preliminary hearing shall —

- (a) be in writing addressed to the Secretary;
- (b) specify the date on which the application or reference was filed with the Secretary and the relevant file number;
- (c) state the name of the party making the request;
- (d) be signed by or on behalf of that party; and
- (e) be filed with the Secretary.

(7) The President shall fix a time and place for the hearing of the application or reference (other than an application to which regulation 34 of these Regulations applies or an application or reference in respect of which the Tribunal decides not to have a hearing), and the Secretary shall cause notice of the time and place so fixed to be served on the parties to the application or reference and on the persons (if

any) who have applied to the Tribunal to be made parties to the application or reference and whose applications to be made parties have not been previously determined.

(8) An application to which regulation 34 of these Regulations applies shall be dealt with at the preliminary hearing (if any) or the hearing of the proceeding to which it relates.

Advertising of applications and references

18. — (1) Where an application (other than an application in relation to which this regulation does not apply) or a reference is made to the Tribunal, the person making the application or reference shall, subject to this regulation, cause notice of the making of the application or reference to be advertised in each State by being published, within ten days after the filing of the application or reference with the Secretary, in a newspaper circulating in that State.

(2) The President may direct that notice of the making of an application or reference specified in the direction need not be advertised, or need not be advertised in a State so specified, or that the notice be advertised in a manner other than that specified in the last preceding sub-regulation.

(3) The notice shall —

- (a) specify the date on which the application or reference was made and the relevant file number;
- (b) state the name, and the address for service, of the person by whom the application or reference is made; and
- (c) state the general nature of the application or reference and specify the provision of the Act or of these Regulations under which the application or reference is made.

(4) This regulation does not apply in relation to applications under sub-section (3) of section 47, paragraph (b) of sub-section (3) of section 59, sub-section (3) of section 70, sub-section (3) of section 107 and paragraph (a) of sub-section (1) of section 108 of the Act or to applications to which regulation 34 or regulation 35 of these Regulations applies.

Matters to be included in application under section 47(3)

19. — An application to the Tribunal under sub-section (3) of section 47 of the Act —

- (a) shall set out the circumstances or events giving rise to the application and, in particular, shall —
 - (i) identify the work, or the adaptation of a work, to which the application relates;
 - (ii) identify the sound recording or cinematograph film to which the application relates;
 - (iii) state whether the applicant is the owner of the copyright in the work or the maker of the recording or film;
 - (iv) if the applicant is the owner of the copyright — state the name of the maker of the recording or film; and
 - (v) if the applicant is the maker of the recording or film — state the name of the owner of the copyright; and

- (b) shall request the Tribunal to determine the amount that is equitable remuneration to the owner of the copyright for the making of the recording or film.

Matters to be included in application under section 59(3)(b)

20. — An application to the Tribunal under paragraph (b) of sub-section (3) of section 59 of the Act —

- (a) shall set out the circumstances or events giving rise to the application and, in particular, shall —
- (i) identify the musical work and the literary or dramatic work to which the application relates;
 - (ii) identify the record to which the application relates;
 - (iii) state whether the applicant is the owner of the copyright in the musical work or the owner of the copyright in the literary or dramatic work;
 - (iv) if the applicant is the owner of the copyright in the musical work — state the name of the owner of the copyright in the literary or dramatic work; and
 - (v) if the applicant is the owner of the copyright in the literary or dramatic work — state the name of the owner of the copyright in the musical work; and
- (b) shall request the Tribunal to determine the manner in which the royalty payable by the maker of the record in respect of the musical work and the literary or dramatic work shall be apportioned between the owners of the copyrights in those works.

Matters to be included in application under section 70(3)

21. — An application to the Tribunal under sub-section (3) of section 70 of the Act —

- (a) shall set out the events giving rise to the application and, in particular, shall —
- (i) identify the artistic work to which the applicant relates;
 - (ii) identify the cinematograph film to which the application relates;
 - (iii) state whether the applicant is the owner of the copyright in the work or the maker of the film;
 - (iv) if the applicant is the owner of the copyright — state the name of the maker of the film; and
 - (v) if the applicant is the maker of the film — state the name of the owner of the copyright; and
- (b) shall request the Tribunal to determine the amount that is equitable remuneration to the owner of the copyright for the making of the film.

Matters to be included in application under section 107(3)

22. — An application to the Tribunal under sub-section (3) of section 107 of the Act —

- (a) shall set out the circumstances or events giving rise to the application and, in particular, shall —

- (i) identify the sound recording to which the application relates;
- (ii) identify the record to which the application relates;
- (iii) state whether the applicant is the owner of the copyright in the recording or the maker of the record;
- (iv) if the applicant is the owner of the copyright — state the name of the maker of the record; and
- (v) if the applicant is the maker of the record — state the name of the owner of the copyright; and

- (b) shall request the Tribunal to determine the amount that is equitable remuneration to the owner of the copyright for the making of the record.

Matters to be included in application under section 108(1)(a)

23. — An application to the Tribunal under paragraph (a) of sub-section (1) of section 108 of the Act —

- (a) shall set out the circumstances or events giving rise to the application and, in particular, shall —
- (i) identify the sound recording to which the application relates;
 - (ii) state whether the applicant is the owner of the copyright in the recording or the person causing the recording to be heard in public;
 - (iii) if the applicant is the owner of the copyright — state the name of the person causing the recording to be heard in public; and
 - (iv) if the applicant is the person causing the recording to be heard in public — state the name of the owner of the copyright; and
- (b) shall request the Tribunal to determine the amount that is equitable remuneration to the owner of the copyright for the causing of the recording to be heard in public.

Matters to be included in application under section 152(2)

24. — An application to the Tribunal under sub-section (2) of section 152 of the Act shall —

- (a) state whether the applicant is a broadcaster or the owner of a copyright in a published sound recording;
- (b) if the applicant is an owner of such a copyright — state the name of the broadcaster in relation to whom the application is made;
- (c) specify the period in respect of which an order of the Tribunal is sought; and
- (d) request the Tribunal to make an order determining, or making provision for determining, the amount payable by the broadcaster to the owners of copyrights in published sound recordings in respect of the broadcasting during that period of those recordings by that broadcaster.

Matters to be included in application under section 152(12)

25. — An application to the Tribunal under sub-section (12) of section 152 of the Act shall —

- (a) specify the order of the Tribunal to which the application relates; and
- (b) request the Tribunal to amend the order so as to specify the applicant as one of the persons among whom the amount specified in, or determined in accordance with the order is to be divided.

Matters to be included in reference under section 154

26. — (1) A reference of a licence scheme to the Tribunal under section 154 of the Act shall —

- (a) state that the licensor referring the scheme proposes to bring the scheme into operation;
- (b) state whether the scheme relates to licences in respect of literary, dramatic or musical works or to licences in respect of sound recordings, or to licences both in respect of literary, dramatic or musical works and in respect of sound recordings;
- (c) state whether the licensor referring the scheme is the owner or prospective owner of the copyright in the works or recording or is acting as agent for the owners or prospective owners in relation to the negotiation or granting of such licences; and
- (d) request the Tribunal to make such order, confirming or varying the scheme, as the Tribunal considers reasonable in the circumstances.

(2) The reference shall be accompanied by a copy of the licence scheme.

References under section 155

27. — (1) A reference of a licence scheme to the Tribunal under section 155 of the Act shall —

- (a) state whether the person referring the scheme is —
 - (i) the licensor operating the scheme;
 - (ii) an organization claiming to be representative of persons requiring licences in cases included in a class of cases to which the scheme applies; or
 - (iii) a person claiming that he requires a licence in a case included in a class of cases to which the scheme applies;
- (b) specify the class of cases to which the reference relates;
- (c) state the name of the other party to the dispute that gave rise to the reference;
- (d) set out particulars of the matter in dispute; and
- (e) request the Tribunal to make such order, confirming or varying the scheme, in so far as it relates to the class of cases to which the reference relates, as the Tribunal considers reasonable in the circumstances.

(2) Where the reference is made by an organization claiming to be representative of persons requiring licences, the Tribunal shall, before determining the question whether the organization is reasonably representative of the class of persons that it claims to represent, give to every other party to the reference, and to every person who has applied to be made a party to the reference and whose application has not been determined, an opportunity of presenting a case in relation to that question.

*Application for leave under section 156(2)
to refer licence scheme to Tribunal*

28. — (1) A person desiring the leave of the Tribunal under sub-section (2) of section 156 of the Act to refer a licence scheme to the Tribunal under sub-section (1) of that section and desiring that the question whether the leave should be granted be determined before the preliminary hearing or the hearing of the reference shall make an application to the Tribunal in accordance with this regulation.

(2) The applicant shall —

- (a) describe the general nature of the scheme as previously confirmed or varied by the Tribunal;
- (b) specify the class of cases in relation to which the applicant wishes to refer the scheme to the Tribunal;
- (c) specify the date when the Tribunal last made an order with respect to the scheme in relation to that class of cases and the relevant file number;
- (d) state the name of the other party to the dispute that gave rise to the application;
- (e) set out particulars of the matter in dispute;
- (f) state the grounds on which leave is sought for the making of the reference; and
- (g) request the Tribunal to grant leave to the applicant to refer the scheme to the Tribunal in so far as it relates to that class of cases.

(3) The parties to the application are —

- (a) the applicant;
- (b) if the application is not made by the licensor operating the scheme — that licensor; and
- (c) such other persons (if any) as apply to the Tribunal to be made parties to the application and, in accordance with the next succeeding sub-regulation, are made parties to the application.

(4) Where a person applies to the Tribunal to be made a party to the application and it appears to the Tribunal that the person has a substantial interest in the operation of the scheme in so far as it relates to the class of cases specified in the application, the Tribunal may, if it thinks fit, make that person a party to the application.

(5) The Tribunal shall consider the application and, after giving to the parties to the application an opportunity of presenting their cases, shall make such order, either granting or refusing the application, as the Tribunal thinks fit.

References under section 156

29. — (1) A reference of a licence scheme to the Tribunal under section 156 of the Act shall —

- (a) specify the date when the Tribunal last made an order with respect to the scheme that is applicable in the class of cases to which the reference relates and the relevant file number;
- (b) state whether the person referring the scheme is —
 - (i) the licensor operating the scheme;

- (ii) an organization claiming to be representative of persons requiring licences in cases included in the class of cases to which the order applies; or
 - (iii) a person claiming that he requires a licence in a case included in that class;
- (c) specify the class of cases to which the reference relates;
- (d) state the name of the other party to the dispute that gave rise to the reference;
- (e) set out particulars of the matter in dispute;
- (f) where leave of the Tribunal is required for the making of the reference —
- (i) if that leave has already been granted — specify the date when the Tribunal granted the leave and the relevant file number; and
 - (ii) in any other case — state the grounds on which leave is sought for the making of the reference and request the Tribunal to grant leave for the making of the reference; and
- (g) request the Tribunal to make such order in relation to the scheme as previously confirmed or varied, in so far as it relates to cases included in the class of cases to which the reference relates, whether by way of confirming, varying or further varying the scheme, as the Tribunal considers reasonable in the circumstances.

(2) Sub-regulation (2) of regulation 27 of these Regulations applies for the purposes of this regulation.

Applications under section 157(1)

30. — (1) An application to the Tribunal under sub-section (1) of section 157 of the Act —

- (a) shall set out the circumstances or events giving rise to the application and, in particular, shall —
- (i) specify the case in which a licence is required by the applicant;
 - (ii) specify the licence scheme applicable in that case;
 - (iii) state the name of the licensor operating the scheme; and
 - (iv) specify the date or the approximate date on which the applicant requested the licensor to grant him a licence in accordance with the scheme, or to procure the grant to him of such a licence; and
- (b) shall request the Tribunal to make an order specifying the charges, if any, and the conditions, that the Tribunal considers to be applicable in accordance with the scheme in relation to the applicant.
- (2) The licensor is a party to the application.

Applications under section 157(2)

31. — (1) An application to the Tribunal under sub-section (2) of section 157 of the Act —

- (a) shall set out the circumstances or events giving rise to the application and, in particular, shall —
- (i) specify the case in which a licence is required by the applicant;

- (ii) specify the licence scheme applicable in that case;
- (iii) state the name of the licensor operating the scheme; and
- (iv) specify the charges or conditions to which the grant of a licence in accordance with the scheme would, in that case, be subject and which are claimed by the applicant to be unreasonable in the circumstances of the case; and

(b) shall request the Tribunal to make an order specifying the charges, if any, and the conditions, that the Tribunal considers reasonable in the circumstances in relation to the applicant.

(2) The licensor is a party to the application.

Applications under section 157(3)

32. — (1) An application to the Tribunal under sub-section (3) of section 157 —

- (a) shall set out the circumstances or events giving rise to the application and, in particular, shall —
- (i) specify the case in which a licence is required by the applicant;
 - (ii) state the name of the licensor concerned;
 - (iii) if paragraph (a) of that sub-section is applicable — specify the date or the approximate date on which the applicant requested the licensor to grant him a licence or to procure the grant to him of a licence; and
 - (iv) if paragraph (b) of that sub-section is applicable — specify the charges or conditions to which the licensor proposes that the licence should be subject and which are claimed by the applicant to be unreasonable; and
- (b) shall request the Tribunal to specify the charges, if any, and the conditions, that the Tribunal considers reasonable in the circumstances in relation to the applicant.
- (2) The licensor is a party to the application.

Applications under section 157(4)

33. — (1) An application to the Tribunal under sub-section (4) of section 157 of the Act —

- (a) shall set out the circumstances or events giving rise to the application and, in particular, shall —
- (i) specify the cases in which licences are required by persons represented by the applicant;
 - (ii) state the name of the licensor concerned;
 - (iii) if paragraph (a) of that sub-section is applicable — specify the dates or the approximate dates on which the licensor was requested to grant licences to persons represented by the applicant, or to procure the grant of such licences; and
 - (iv) if paragraph (b) of that sub-section is applicable — specify the charges or conditions to which the licensor proposes that licences to be granted to persons represented by the applicant should be

subject and which are claimed by the applicant to be unreasonable; and

(b) shall request the Tribunal to specify the charges, if any, and the conditions, that the Tribunal considers reasonable in the circumstances in relation to the persons represented by the applicant.

(2) The licensor is a party to the application.

Application to be made a party to a proceeding

34. — (1) An application to the Tribunal to be made a party to a proceeding shall —

(a) specify the date when the proceeding was instituted and the relevant file number;

(b) set out the interest of the applicant —

(i) where the proceeding is an application under section 152 of the Act — in the matter that is the subject of that application;

(ii) where the proceeding is a reference under section 154 of the Act — in the operation of the scheme to which the reference relates;

(iii) where the proceeding is a reference under section 155 or section 156, or an application under section 157, of the Act — in the matter in dispute; and

(iv) where the proceeding is an application for leave of the Tribunal under sub-section (2) of section 156 of the Act to refer a licence scheme to the Tribunal — in the operation of the scheme in so far as it relates to the class of cases specified in that application; and

(c) request the Tribunal to make the person a party to the proceeding.

(2) The Tribunal shall give to the applicant, to every party to the proceeding, and to every other person who has applied to be made a party to the proceeding and whose application has not been determined, an opportunity of presenting a case.

Other applications

35. — (1) A party to a proceeding (other than an application to which the last preceding regulation applies) may apply to the Tribunal requesting the Tribunal to make an order with respect to any matter relating to the proceeding.

(2) The application shall specify the date when the proceeding was instituted and the relevant file number and shall set out the circumstances or events giving rise to the application.

(3) A party to the proceeding may consent to the making of the order sought by the application.

(4) The consent of a party may be endorsed on the application or set out in a separate document filed with the Secretary but, if the consent is set out in a separate document that is not filed with the application, that party shall serve a copy of the document on the applicant within seven days after the document is filed.

(5) Service of notice of the making of the application, or of a copy of the application, is not required to be effected on a party to the proceeding who has consented to the making of the order sought by the application and service of such a notice or copy on any other person may, with the leave of the President or of the Tribunal, be dispensed with.

(6) A party to the proceeding may lodge an objection to the application by filing with the Secretary a notice of objection within fourteen days after the notice of the making of the application was served on him.

(7) A person lodging an objection shall cause a sealed copy of the notice of objection to be served on the applicant within seven days after notice of the objection is filed with the Secretary.

(8) A notice of objection shall —

(a) be in writing addressed to the Secretary;

(b) specify the date on which the application was filed with the Secretary and the relevant file number;

(c) state the name of the party lodging the objection;

(d) state the grounds of the objection; and

(e) be signed by or on behalf of the party lodging the objection.

(9) The Tribunal shall consider the application and, subject to the next succeeding sub-regulation, may make such order in relation to the application as the Tribunal considers reasonable in the circumstances.

(10) The Tribunal shall not refuse the application in whole or in part without giving the applicant an opportunity of presenting his case and, if an objection has been lodged to the application, shall not grant the application in whole or in part without giving the party by whom the objection was lodged an opportunity of presenting his case.

PART V

Ancillary Matters

Consolidation of applications and references

36. — (1) Where two or more applications are pending before the Tribunal, the Tribunal may, of its own motion or on the application of a party to any of the applications, direct that some or all of the applications be considered together and may give such consequential directions as the Tribunal considers necessary.

(2) Where two or more references are pending before the Tribunal in relation to the one licence scheme, the Tribunal may, of its own motion or on the application of a party to any of the references, direct that some or all of the references be considered together and may give such consequential directions as the Tribunal considers necessary.

(3) Before giving a direction under either of the last two preceding sub-regulations, the Tribunal shall give each party to each of the applications or references concerned an opportunity of presenting a case.

Request as to constitution of Tribunal

37. — (1) A request under paragraph (b) of sub-section (3) of section 146 of the Act by a party to an application or reference that the Tribunal be constituted by more than one member for the purposes of that application or reference shall —

- (a) be in writing addressed to the Secretary;
- (b) specify the date on which the application or reference was filed with the Secretary and the relevant file number;
- (c) state the name of the party making the request;
- (d) be signed by or on behalf of that party; and
- (e) be filed with the Secretary before the Tribunal begins to consider the application or reference.

(2) The party making the request shall cause a sealed copy of the request to be served, within seven days after the request is filed with the Secretary, on every other party to the application or reference.

Withdrawal of application

38. — (1) A person who has made an application to the Tribunal may, with the leave of the Tribunal, withdraw the application at any time before the Tribunal has determined the application.

(2) The leave of the Tribunal under the last preceding sub-regulation may be granted unconditionally or subject to such conditions as the Tribunal thinks reasonable.

(3) Where the Tribunal has granted leave for the withdrawal of an application, the withdrawal shall be effected by —

- (a) the filing with the Secretary of a notice in writing —
 - (i) addressed to the Secretary;
 - (ii) specifying the date on which the application was made and the relevant file number;
 - (iii) stating that the person who made the application withdraws the application; and
 - (iv) signed by or on behalf of that person; and
- (b) the serving of a sealed copy of the notice on every party to the application.

Withdrawal of reference licence scheme

39. — The withdrawal under sub-section (6) of section 154 of the Act, or sub-section (7) of section 155 of the Act (including that sub-section as having effect by reason of sub-section (5) of section 156 of the Act), of a reference of a licence scheme shall be effected by —

- (a) the filing with the Secretary of a notice in writing —
 - (i) addressed to the Secretary;
 - (ii) specifying the date on which the scheme was referred and the relevant file number;
 - (iii) stating that the person who referred the scheme withdraws the reference; and
 - (iv) signed by or on behalf of that person; and
- (b) the serving of a sealed copy of the notice on every party to the reference.

Request for reference of question of law to High Court

40. — (1) For the purposes of sub-section (1) of section 161 of the Act, a request to the Tribunal, made after the date on which the Tribunal has given its decision in a proceeding, for the reference of a question of law to the High Court shall —

- (a) be in writing addressed to the Secretary;
- (b) state the name of the party making the request;
- (c) specify the question of law;
- (d) request the Tribunal to refer that question to the High Court;
- (e) be signed by or on behalf of the party making the request; and
- (f) be filed with the Secretary.

(2) The party making the request shall cause notice of the making of the request, together with a sealed copy of the request, to be served, within seven days after the request is filed with the Secretary, on every other party to the proceeding.

(3) For the purposes of the last preceding sub-regulation, a notice of the making of a request —

- (a) shall be in writing addressed to the party on whom it is served; and
- (b) shall inform that party that he may, within twenty-one days after service of the notice, present a case in writing to the Tribunal in relation to the request.

(4) The party making the request may within twenty-one days after the request is filed with the Secretary, and every other party to the proceeding may within twenty-one days after service on that party of the notice of the making of the request, present a case in writing to the Tribunal in relation to the request and the Tribunal may, if it thinks fit, give to each of those parties an opportunity of presenting a case orally to the Tribunal.

(5) The Secretary shall cause notice of the decision of the Tribunal on the request to be served on the party that made the request and on every other party that presented a case to the Tribunal in relation to the request or notified the Tribunal that the party wished to be informed of the decision.

Suspension of orders of Tribunal pending reference of question of law to High Court

41. — (1) Where, after the date on which the Tribunal has given its decision in a proceeding, the Tribunal refers to the High Court a question of law that arose in the course of the proceeding, the Tribunal may, if it thinks fit, suspend the operation of any order made by the Tribunal in the proceeding.

(2) Where an order of the Tribunal is so suspended, the Secretary shall cause notice in writing of the suspension to be served on every party to the proceeding and, if particulars of the order have been published in pursuance of a direction under sub-regulation (4) of regulation 15 of these Regulations, shall cause particulars of the suspension to be published in such newspaper or newspapers circulating in Australia as the President directs.

Proceedings before Tribunal after determination of question of law by High Court

42. — (1) Where a question of law arising in a proceeding has been referred to, and determined by, the High Court in pursuance of section 161 of the Act, any party to the proceeding before the Court may file with the Secretary an office copy of the order of the Court.

(2) Subject to the next succeeding sub-regulation, when a copy of the order of the High Court has been filed in pursuance of the last preceding sub-regulation, the President shall fix a time and place for the resumption of the hearing of the proceeding and the Secretary shall cause notice of the time and place so fixed to be served on the parties to the proceeding.

(3) The last preceding sub-regulation does not apply where the question of law was referred to the High Court after the Tribunal had given its decision in the proceeding and that decision is consistent with the determination of the High Court.

Amendment of documents

43. — (1) The Tribunal may grant leave to a party to a proceeding to amend a document previously filed with the Secretary by that party in connexion with that proceeding.

(2) The leave of the Tribunal under the last preceding sub-regulation may be granted unconditionally or subject to such conditions as the Tribunal thinks reasonable.

(3) Where leave is granted to a party to a proceeding to amend a document, the party shall file with the Secretary a statement of the amendments and, upon the filing of the statement, the amendments shall be deemed to be made.

(4) The party filing the statement shall cause a sealed copy of the statement to be served on every other party to the proceeding within seven days after the statement is filed.

(5) Nothing in this regulation prevents a person filing a notice specifying a new address for service in accordance with regulation 11 of these Regulations.

PART VI

Miscellaneous

Summons to witness

44. — (1) A summons to a witness under sub-section (2) of section 167 of the Act shall be substantially in accordance with Form 2 in the First Schedule³ to these Regulations.

(2) A summons under sub-section (2) of section 167 of the Act shall be served on a person by —

(a) delivering a copy of the summons to the person personally; and

(b) showing the summons to the person at the time at which the copy is delivered to him.

Extension of time

45. — The Tribunal or the President may, whether before or after the expiration of the time prescribed or allowed by or under these Regulations for the filing of a document with the Secretary, the serving of a document on a person or the doing of any other act, extend that time for such period or periods, and subject to such conditions, as the Tribunal or the President thinks fit.

Fees

46. — The fees specified in the Second Schedule⁴ to these Regulations are payable in respect of the matters in relation to which they are so specified.

Witnesses' fees and expenses

47. — (1) A person who —

(a) attends to give evidence in a proceeding;

(b) attends to give evidence and produce documents or articles in a proceeding; or

(c) attends to produce documents or articles in a proceeding,

in accordance with a summons, or at the request of a party to the proceeding or of the Tribunal, is entitled, whether or not he is called to give evidence or to produce documents or articles, to payment of fees and expenses in accordance with the scale of witnesses' fees and expenses set out in the Third Schedule⁴ to these Regulations (less any amount previously paid to him for his expenses of attendance).

(2) Payment of fees and expenses to a witness shall be made by the person on whose behalf the witness is summoned or at whose request the witness attends or, if the witness is summoned or requested to attend on behalf of the Tribunal, by the Commonwealth.

Power to waive procedural requirements and effect of non-compliance

48. — (1) Subject to the Act, the Tribunal may, in relation to any proceeding, in special circumstances, and either absolutely or subject to conditions, exempt a person from compliance with any procedural requirements of these Regulations.

(2) Subject to the Act, non-compliance with any of these Regulations does not render void a proceeding or an order of the Tribunal, but the proceeding or order may be set aside either wholly or in part as irregular, or amended, or otherwise dealt with, by the Tribunal in such manner and upon such terms as the Tribunal thinks fit.

³ The Schedule is not reproduced in this review.

⁴ The Schedule is not reproduced in this review.

ICELAND

I

Regulations concerning the payment of royalties to authors for public performances of literary works and musical compositions in religious services and other church ceremonies

(Of July 11, 1974) *

Article 1. — Authors are entitled to receive a royalty payment for the performance of literary works and musical compositions which take place in religious services and other church ceremonies. For this purpose a fee shall be collected, which is based on a specified percentage of the fees which the performers of said works receive for their performance in such services and ceremonies, cf. Articles 2 and 3 of these Regulations.

Article 2. — For the performance of works in religious services an annual sum of money shall be disbursed by the State Treasury, which shall amount to three percent of the estimated total fees paid to the performers receiving fees for their performances in such religious services. In drawing up the Budget each year the said fee shall be estimated on the basis of information available concerning the total fees payable to performers in that year.

Article 3. — For the performance of works performed in funeral services a fee shall be collected each time amounting to five percent of the fees paid to the performers. Permanently employed church organists and funeral directors may be charged with the duty of collecting this fee against payment of remuneration determined by the Minister of Education and Culture.

Article 4. — A special fund shall be established for the purpose of providing financial support to composers and authors of religious works. Of the charges collected according to the provisions of Articles 2 and 3 of these Regulations twenty percent shall revert to the aforementioned Fund.

The Board of Directors of this Fund shall be composed of three members. One of these is appointed by the Minister, without designation, and he shall serve as the Chairman of the

Board, one member shall be appointed on the basis of a nomination by the Federation of Composers and Owners of Performance Rights, and one member shall be appointed on the basis of a nomination made by the Association of Icelandic Writers, or any other writers' organisation which may succeed the said Association.

The Minister of Education and Culture shall issue further regulations concerning the organisation and the role of the Fund.

Article 5. — After the cost of collecting and payments to the Fund to be established in accordance with the provisions of Article 4 above, the charge which is imposed according to the provisions of Articles 2 and 3 above shall revert to the Federation of Composers and Owners of Performance Rights, while this organisation shall undertake the task of reimbursing fees to composers and authors in accordance with its own rules of apportionment, as may be applicable. In instances where a musical composition is performed with a text, both of which are protected by copyright, the rule shall apply, however, that an author's fee shall be divided equally between the composer and the author of the text, and in determining the payment of fees the text shall otherwise at all times be deemed as equal in value to the musical composition.

Article 6. — The Ministry of Education and Culture shall undertake to collect the charges levied in accordance with these Regulations, or entrust this task to the Federation of Composers and Owners of Performance Rights, which shall also undertake the apportionment and payment of fees, cf. Article 5.

Article 7. — These Regulations, which are issued in accordance with the provisions of sub-paragraph (4) of Article 21 of the Copyright Act No. 73/1972, enter into effect forthwith.

* Authorized English translation communicated to WIPO by courtesy of the Ministry of Culture and Education of the Republic of Iceland.

II

Charter for the Church Musical Education Fund

(Of July 11, 1974) *

Article 1. — The name of the Fund shall be the Church Musical Education Fund.

The Fund is established with a contribution from the Ministry of Education and Culture in the amount of Icel. kr. 10,000.00.

The income of the Fund shall consist of twenty (20) per cent of the charge annually collected for the public performance of literary works and musical compositions performed in religious services and other church ceremonies, as well as of any other contributions which may revert to the Fund.

Article 2. — The purpose of the Fund is to strengthen the composition of church music and texts to be sung to such music.

With this in mind money shall be disbursed from the Fund in aid of composers and authors for the purpose of composing individual works at their own initiative, or by commission from the Fund's Board of Directors. Furthermore, grants

* The Charter was approved by the President of Iceland on July 17, 1974. Authorized English translation communicated to WIPO by courtesy of the Ministry of Culture and Education of the Republic of Iceland.

may be made from the Fund to composers and authors in recognition of work already completed.

Article 3. — The Fund's Board of Directors shall be composed of three members. One shall be appointed by the Minister of Education and Culture, without nomination, and he shall also serve as Chairman of the Board, one member shall be appointed on the basis of a nomination made by the Federation of Composers and Owners of Performance Rights, and one member appointed on the basis of a nomination by the Association of Icelandic Writers, or any other writers' organisation which may succeed the said Association.

Article 4. — Payments from the Fund shall be made once a year. The entire assets of the Fund, as they are at each given time, may be disbursed, with the exception of its initial capital stock of Icel. kr. 10,000.00.

Article 5. — The Fund shall be administered and guarded by its Board of Directors, who also keeps the accounts of the Fund and administers its holdings.

Article 6. — The Charter of the Fund shall be subject to the approval of the President of Iceland.

Requests the confederated Societies to make representations to their respective Governments to lay down, through all appropriate legal, economic and social means within the framework of an effective statute on behalf of creators and performers of music, a policy for the promotion of contemporary musical creation and its live expression.

Private sound and audiovisual recordings

The International Confederation of Societies of Authors and Composers (CISAC), meeting in General Assembly at Hamburg from April 21 to 26, 1975, on the occasion of its XXIXth Congress,

Noting the ever more generalised use of recording machines and the multiplication of private reproductions,

Considering that this situation is more and more prejudicial to the legitimate interests of authors, performing artistes, phonogram producers and broadcasting organisations,

Considering that machines that have recently been perfected for the private recording of audiovisual programmes will eventually entail similar dangers,

Respectfully requests Governments to take measures similar to those adopted in Germany (Federal Republic of) by means of appropriate legislation providing for the payment of an adequate royalty based on both the domestic manufacture and the importation of machines and/or blank tapes facilitating the said recordings.

Copyright protection

The International Confederation of Societies of Authors and Composers (CISAC), meeting in General Assembly at Hamburg from April 21 to 26, 1975, on the occasion of its XXIXth Congress,

Alerted by its Panamerican Council to the tendency discernible in the legislation of several Latin-American countries to grant protection under the heading of copyright to activities having an industrial character of some important users of works of the mind,

Recalls, in conformity with the principles laid down in its Charter of the Author's Right, that the legitimate interests of those who contribute in some way to the diffusion of works of the mind should not be dealt with in the field of authors' rights, which is concerned only with the protection of the interests of intellectual creators.

OBITUARY

E. D. Hirsch Ballin

1898-1975

Professor E. D. Hirsch Ballin, a well-known expert in international copyright circles, died on March 15, 1975.

His entire career was devoted to legal science. Born in Wiesbaden in 1898, he studied law at Munich, where his thesis, entitled *Das Recht aus der Erfindung*, received the highest of commendations. He began his professional career as an attorney and notary, later turning to university teaching. He acquired Dutch nationality in 1948, and, among other things, was Professor of Copyright and Industrial Property Law at the University of Amsterdam from 1966 onwards.

Professor Hirsch Ballin's erudition, his constant desire for further research, his concern for the continuous defense of orthodox concepts in copyright and his many studies leave us with the memory of an eminent personality whose work made a rich contribution to law literature in the intellectual property field.

Meetings of Other International Organizations concerned with Intellectual Property

September 16 to 19, 1975 (Budapest) — International Federation of Musicians — Executive Committee

September 17 to 20, 1975 (London) — Union of European Professional Patent Representatives — General Assembly

September 22 to 24, 1975 (Basle) — Licensing Executives Society (LES) — International Conference

October 1 to 3, 1975 (Berlin) — International Literary and Artistic Association — Working Session

November 17 to 26, 1975 (Paris) — United Nations Educational, Scientific and Cultural Organization (UNESCO) — Committee of Governmental Experts on the Double Taxation of Copyright Royalties

November 17 to December 15, 1975 (Luxembourg) — General Secretariat of the Council of Ministers of the European Communities — Luxembourg Conference on the Community Patent

May 25 to June 1, 1976 (Tokyo) — International Publishers Association — Congress
