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Berne Union

Working Group on the Problems in the Field of Copyright and So-Called Neighbouring Rights Raised by the Distribution of Television Programmes by Cable

(Paris, June 13 to 17, 1977)

Report

presented by the Secretariat and adopted by the Working Group

Introduction

1. In accordance with the recommendations made by the Intergovernmental Copyright Committee and the Executive Committee of the Berne Union (herein-after referred to as "the Copyright Committees") at their sessions held in Geneva in December 1975, and taking into consideration the parallel decision of the Intergovernmental Committee established under Article 32 of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome Convention) that "a study similar to that agreed upon by the Copyright Committees should be undertaken by the Secretariat", the Working Group on the Problems in the Field of Copyright and So-Called Neighbouring Rights Raised by the Distribution of Television Programmes by Cable met in Paris from June 13 to 17, 1977. The Working Group was composed of specialists invited in a private capacity by the Directors-General of Unesco and WIPO. The meeting was also attended by the International Labour Organisation, the Council of Europe and observers from nineteen international non-governmental organizations concerned. The list of participants is annexed to this report.

2. The documentation available to the Working Group consisted of the comments received from States party to the Universal Copyright Convention or the Berne Convention for the Protection of Literary and Artistic Works, and from international non-governmental organizations, on the problems involved, together with an analysis of these comments prepared by the Unesco Secretariat and the International Bureau of WIPO with the assistance of Mr. Adolf Dietz.

Opening of the Meeting

3. The meeting was opened by Ms Marie-Claude Dock, Director of the Copyright Division, Unesco, and Mr. Claude Masouyé, Director of the Copyright

and Public Information Department, WIPO, who welcomed the participants on behalf of their respective organizations.

Election of the Chairman

4. The Working Group unanimously elected Ms Barbara Ringer, Register of Copyrights, Copyright Office, Library of Congress, United States of America, as its Chairman.

General Considerations

5. As presumptions underlying its discussions, the Working Group considered that:

- (i) in accordance with its terms of reference, the problems involved should be studied both from the point of view of the protection of authors under traditional copyright concepts, and from the point of view of the safeguard of the interests of performers, producers of phonograms and broadcasting organizations, under neighbouring rights concepts or otherwise;
- (ii) as far as authors' rights were concerned, the solution of these problems did not require revision of the Berne Convention for the Protection of Literary and Artistic Works or of the Universal Copyright Convention;
- (iii) with respect to neighbouring rights, the Rome Convention for the Protection of Performers, Producers of Phonograms, and Broadcasting Organisations did not offer any fully satisfactory solution to these problems, and in the field of international relations only one of the beneficiaries of that convention (i. e., broadcasting organizations) received a certain amount of protection under the European Agreement on the Protection of Television Broadcasts.

The Three Situations Presented

6. The Working Group considered that three situations should be clearly distinguished from each other:

- (i) the distribution by cable of the cable distributor's own programmes,
- (ii) the distribution by cable of broadcast programmes retransmitted by the original broadcasting organization,
- (iii) the distribution by cable of broadcast programmes by an organization other than the original broadcasting organization.

7. The Working Group considered that, with respect to copyright protection, the study of these different situations should be based on the provisions of the Berne Convention, which contains detailed regulations on this subject (Articles 11, 11^{bis} and 11^{ter}). The broadness and flexibility of the provisions of the Universal Copyright Convention (Article I, II and IV^{bis}) lead to the conclusion that interpretations of the UCC on these points would be the same as those applicable under the Berne Convention.

Possible Criteria

(a) *Distribution by cable of the cable distributor's own programmes*

8. On the subject of the cable distribution of the cable distributor's own programmes the Working Group attempted to define exactly what is meant by "own programmes". It was evident that this concept covered not only the transmission of programmes originated by the cable distributor itself but also the retransmission of broadcast programmes if the retransmission was not simultaneous; it also covered the simultaneous retransmission of broadcast programmes if some change were made in the programmes themselves, or in any commercial advertising, except in cases that might be described as matters of *force majeure* such as, for example, when commercials are banned by law. In considering the meaning of the concept of "own programmes", the Working Group's attention was also drawn to the situation in which cable distributors alter signals in a way that permits reception on receiving sets having technical characteristics different from those of the sending apparatus, thus reaching a larger audience.

9. The Working Group considered that the cable distribution of the cable distributor's own programmes would be subject to the exclusive rights afforded to authors and to other owners of exclusive rights, with respect to reproduction, communication to the public, or broadcasting.

(b) *Distribution by cable of broadcast programmes retransmitted by the original broadcasting organization*

10. The Working Group considered that, under Article 11^{bis}(1)(ii) of the Berne Convention, this type of distribution did not give rise to the author's

exclusive right of communication to the public, and did not require a new authorization with respect to that right, assuming that the work was broadcast in the first instance and that the cable distributor and the original broadcaster were one and the same. It also took the view that, in any case, this type of distribution would not create problems since it could be taken into account during the negotiation of contracts between the authors and the broadcasting organizations involved.

(c) *Distribution by cable of broadcast programmes retransmitted by an organization other than the original broadcasting organization*

11. At the outset the Working Group sought to define the conditions under which this operation would be covered by Article 11^{bis}(1)(ii) of the Berne Convention. According to this provision "Authors . . . shall enjoy the exclusive right of authorizing . . . any communication to the public by wire or by rebroadcasting of the broadcast of the work, when this communication is made by an organization other than the original one". The Working Group sought to establish the criteria which, under this provision, would permit a distinction to be made between operations constituting communication to the public and operations consisting of mere reception not subject to any exclusive rights.

12. It became evident that two basic criteria should be taken into consideration: (1) communication to the public, and (2) the intermediate presence, between the original broadcasting organization and the intended recipient, of a separate distributing organization. It was recognized that, while the interpretation of these concepts must be left to the judgement of States, some points should be taken into consideration for this purpose. Thus, a relevant point to consider in determining whether a communication is "a communication to the public" within the meaning of the provision in question is the intervention of a separate distributing organization; other relevant factors include the number of receiving sets and the size or distance of the potential audience. Criteria for determining whether or not an organization is a "separate distributing organization" for this purpose include the organization's purpose in communicating programmes to the public or to certain segments of the public, the organization's solicitation of subscriptions from members of the public, the nature or the size of its technical equipment, and the commercial intentions behind its activities. On the other hand, the Working Group felt that there would be mere reception not subject to any exclusive rights rather than communication to the public, and the use of mere receiving apparatus rather than an act of public distribution when, for example, a group of householders collectively installs, on its own account

and with no profit motive, equipment for mere reception.

13. Some experts believed that the activity of a distributing organization in retransmitting signals over a substantial distance should of itself require the operation to be interpreted as a "public communication". On the other hand, the distribution of local signals within the direct reception zone of the broadcasts would make such an interpretation more difficult to the extent that, in such a case, there was no new public, the recipients were the public for which the broadcasts were normally intended, and — at least in the case, for example, of a nation-wide broadcast distributed by cable only within the borders of the country in question — it could be presumed that the copyright owners had given their permission for the distribution. Certain experts also emphasized that various circumstances could arise which, in their view, would place the distribution of local signals to the public for which they were intended outside any system of exclusive rights: administrative regulations requiring the distributor to distribute the signals, government ban on individual aerials, zones of poor reception.

14. It was noted, however, that a distinction based on whether or not a distribution was within a direct reception zone was a concept foreign to the general scheme of Article 11^{bis} of the Berne Convention. In the interpretation of that provision, the significant factor was that, where an originating organization has been legally authorized to make a television broadcast, the interposition of an intervening distribution by a third party will subject the transmission to new copyright obligations, and, just as the originating organization was treated as the organizer of a public performance, the distributor's activity will be considered an act of public communication.

15. Some experts considered that the mere existence of a commercial purpose on the part of a separate distributing organization should suffice to qualify the communication as "public". According to these experts, it does not matter whether the commercial purpose is direct (subscriber services offered to specific groups) or indirect (the case of the owner of a building who installs a community antenna so that he can raise rents). It was observed that a distinction could be made between a profit motive that derives directly from the activities of the distributor, and one that results incidentally from another activity such as property management (hotels, hospitals). On the other hand, the mere absence of a profit motive cannot rule out such an interpretation when other factors, such as the carriage of distant signals, are involved. Thus, where local authorities instal, without charge, community receiving equipment for the inhabitants of their area, their activities would, according

to these experts, be considered either communication to the public or simple private reception depending on whether the signals distributed were distant signals or local signals.

16. The Working Group considered the problem of the distribution by cable of foreign programmes within their direct reception zone (frontier zones covering a larger or smaller part of the national territory depending on the size of the country, the power and location of the foreign transmitter, or its installation on a direct broadcast satellite). The experts noted the dangers involved in liberalizing such operations from several points of view: from an economic viewpoint (exploitation of films and other programmes), from a cultural viewpoint (safeguard of national productions and creativity), and from the point of view of respecting copyright principles (national treatment). These arguments were even more pronounced in the case of the distribution by cable of foreign programmes retransmitted from the direct reception zone to recipients outside that zone.

Methods of Regulation

(a) Exclusive rights or compulsory licensing systems

17. The Working Group noted that the traditional concept of copyright consisted of the granting of an exclusive right to authors for the use of their works, and that this principle also is the philosophical basis on which the multilateral copyright conventions rest. It felt that, with regard to the legal problems raised by cable distribution, the need to respect this principle should be reaffirmed, and that therefore it was difficult to consider any system of compulsory licensing as consistent with this principle. Any such system would be acceptable only as an option to which domestic law could have recourse in certain exceptional cases. Such a system should be adopted only as a last resort, when no agreement between the interested parties was possible. It would be necessary to provide for the payment of equitable remuneration and for an appropriate procedure. Similar views were expressed with respect to neighbouring rights.

(b) Collective management

18. The Working Group was of the opinion that the best solutions to the problems under discussion would be through the collective exercise of exclusive rights. Societies of authors and licensing organizations should be in a position to issue authorizations on behalf of the owners or beneficiaries concerned. The intervention of such groups would also be in the interests of the users since it would relieve them of the necessity of obtaining individual permissions and would afford them some legal security in the use of very large repertoires. However, certain experts

observed that authorizations of this kind should deal with programmes as a whole and not on a fractional basis. In other words, it should not be permissible to grant an authorization and later to have the power to withdraw authorization with respect to certain portions of the programmes. From the economic point of view retransmissions can be of interest to distributors only if they obtain the right to retransmit the programme as an integral whole. It was evident that, both for programme contributors and for programme distributors, the normal exercise of the rights involved would require that there be a single representative to deal collectively with their rights and interests. Nevertheless, the concept of a single representative should not mean that there is an obligation to establish only one body, but should simply permit the granting of general permissions for the use of categories of works or performances. In this connexion it seemed desirable that there should be some grouping of the representatives of the interested parties internationally, in order to facilitate the preparation of model contracts or general agreements that would be valid on an international basis. Although the Working Group found that it would be desirable to unify the representation of the rights and interests involved, it recognized that, depending on various countries and local conditions involved, several bodies could be entitled to intervene in the negotiations. It stressed that what was important was collective management of the rights, but that this should not be interpreted as prejudicing free competition in any way. The Working Group considered that this collective or joint method of operation was desirable not only as far as authors were concerned but also for the safeguard of the interests of other programme contributors, including the producers of films distributed by cable.

19. Having thus stressed the necessity for the collective management of intellectual property rights, the Working Group noted that this system should serve to facilitate solutions not only with respect to authorizations and the remuneration of the owners of rights, but also with respect to public communication of works and the presentation of performances. It was brought out in this connexion that the anarchy at present prevailing in the cable distribution of theatrical films, produced originally for projection on a large screen in a theatre, risked endangering the market and seriously prejudicing film creation itself. As far as performers are concerned, it was recalled that the fundamental requirement was not so much the granting of financial compensation but an affirmation of the principle that their rights would be protected, even though this was not in itself the only decisive factor needed for improving their conditions of employment. Finally, it was observed that, in the cases under consideration, there were to be

found, on the one hand, those who originated the works and performances constituting the programmes and whose cultural contribution was essential to the development of society and, on the other hand, those with merely a technical or commercial role in the distribution of these programmes and who contributed no cultural message to the public.

(c) Exceptions or limitations

20. In considering the means of statutory regulation or individual or collective agreements between the parties concerned, the Working Group raised questions as to whether adjustments should be made for the exercise of exclusive rights when there is cable distribution within certain territorial zones or areas. In this connexion, it explored the value of certain concepts, such as the direct reception zone, the service zone, or any reception zone based on geographical, linguistic or other criteria. Some members observed that these concepts had not been established by any legislative or statutory text and should therefore be considered as myths which should be discarded in the search for solutions to the problems raised, especially since such zones cannot be defined with any precision and are subject to constant variation. Others were of the opinion that the direct reception zone did correspond to the actual situation: within a certain region signals can be readily picked up by individual aerials in general use, without the need of subscribing to cable distribution systems, and that this is especially the case in countries whose total area is small.

21. The Working Group considered that in such cases it might be possible to set reasonable limits for the imposition of exclusive rights, principally in the case of the reception of foreign programmes, and that the concepts of certain zones could influence the terms of remuneration for programme contributors. One expert expressed the view that, in certain zones where technically unavoidable overspill was involved, such use of works or performances could be presumed to be covered by the general authorization given to the original organization. As for the direct reception zone, the definition of its limits could be settled in the context of individual or collective agreements based on the exercise of exclusive rights, and it could be taken into consideration in negotiations over the remuneration of the beneficiaries concerned. The Working Group considered that, in the absence of such agreements, recourse to a compulsory licensing system could constitute an alternative solution. It was stressed, however, that any such system should not endanger the normal exploitation of the programme, or of the works and performances included in that programme, in the country in question.

(d) *Interrelationships between radiocommunications regulations and intellectual property rights*

22. The Working Group considered the question of whether it was advisable to recommend that problems connected with intellectual property rights should be settled as a part of the procedure for issuing communications licences; in other words, whether statutory regulations should provide an interdependent scheme consisting of administrative requirements for the operation of public communications media and authorizations required to ensure that the rights of programme contributors are respected.

23. Some commented that two completely separate fields were involved, and that the obligation to link the two was not necessary. It was nevertheless observed that, in order to function, a cable distribution system should in any case require an authorization, on conditions that would naturally vary from country to country, and that it would perhaps be desirable to impose upon it the same conditions as those imposed on broadcasting organizations with respect to the rights of programme contributors. In cases where distributors are obliged to distribute certain programmes, it would be appropriate to provide that such activities could not legally be exercised without obtaining the corresponding authorizations.

24. The attention of the Working Group was drawn to the fact that cable distribution has become a major means of mass communication, and to the situation in certain countries where cable distribution has developed anarchically, thus favouring an invasion of foreign programmes and possibly forcing the public authorities to intervene with administrative regulations which are capable of having considerable impact on copyright protection. In this connexion, it was stressed that any decrease in this protection, motivated by considerations of an economic nature to the profit of users, risked being prejudicial to national creativity.

Distribution of Programmes Carried by Signals Emitted by Satellites

25. The Working Group studied the repercussions which the use of satellites could have when television programmes distributed by cable were carried by signals from either point-to-point distribution satellites or from direct broadcast satellites.

26. As far as the latter are concerned, it was noted that the expansion of the direct reception zone did not change the basic principles applicable, and that the distributing body, whatever it was, would be required to obtain the necessary authorizations from the beneficiaries concerned. On this point, the situation is similar to that where the distribution involves not one but several countries.

27. In the case of point-to-point distribution satellites, it was recalled that the Brussels Convention (1974) Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite provides for a reservation in connexion with the exclusion of protection against distribution by cable. It was argued, however, that this international instrument covers basically the rights of broadcasting organizations rather than intellectual property rights, and that in any event it has not yet come into force. It was considered that, whether they are transmitted through point-to-point distribution satellites or by any other means, the distribution by cable of programmes from point-to-point distribution satellites was a communication to the public and within the field of exclusive rights governed by the multilateral copyright conventions.

28. The attention of the Working Group was also drawn to the *de facto* situation resulting from the use of direct broadcasting satellites. Independently of the direct reception zone of the broadcasts, there in fact exists a region where the signals can be received in uncertain and fluctuating conditions since they are weak and are subject to interference from the use of the same frequencies. The reception of these signals is outside the capacity of individual receivers, but they can be picked up by enterprises with the necessary technical equipment. The Working Group took note of the repercussions which this situation could have on the problems under consideration since it could give cable distribution systems access to a wider range of programmes and increase the supply of programming available to their networks.

Distribution by Cable and the Rome Convention (1961)

29. The attention of the Working Group was drawn to the inadequacy of the protection of performers, producers of phonograms and broadcasting organizations provided by the Rome Convention with respect to cable distribution.

30. As far as performers in particular are concerned, it was stressed that the growth of the new communications medium made possible by cable distribution would aggravate their social and economic situation by adding to the technological unemployment from which their profession is already suffering. In this connexion it was emphasized that the recognition of better protection of the rights of performers would place them in a more favourable position during the negotiations of agreements on the use of their performances.

31. The Working Group took note of the reasons why it could be considered premature to set in motion the procedure for a revision of the Rome Convention. It seemed desirable not to impede the legislative work now in progress in certain States

aimed at permitting their accession to this international instrument, which has only a limited number of Contracting States at present.

32. Consequently, the idea was put forward of considering the possibility of preparing an additional protocol attached to the Rome Convention, which would be open to acceptance by States party to that convention. This protocol would be restricted to regulating, with respect to the categories of beneficiaries covered by the Rome Convention, the protection against distribution by cable.

33. In this connexion, attention was drawn to the legal nature of such an undertaking, which might or might not be considered a revision of the Convention, and to the procedures to be followed depending on whether it was a revision or the preparation of a new legal instrument. On the other hand, certain experts felt that it was not up to the present Working Group to express views or formulate suggestions as to the procedure under which the scope of the Rome Convention would be expanded to cover cable distribution.

Final Considerations

34. The Working Group's study of the legal problems raised by cable distribution has clearly revealed the necessity and usefulness of identifying the problems which should, if appropriate, be taken into account by lawmakers at the national level with a view to regulating this subject with respect to copyright and neighbouring rights.

35. Some experts suggested that the Intergovernmental Committee of the Universal Copyright Convention, the Executive Committee of the Berne Union and the Intergovernmental Committee of the Rome Convention should review the appropriate means for studying this question.

Closure of the Meeting

36. After the customary thanks, the Chairman declared the meeting closed.

List of Participants

I. Members of the Working Group

Mr. Subramania I. Balakrishnan
Adviser on Copyright to the Government of India
and Member of the Copyright Board, Madras

M. Claude Brunet
Consultant au Ministère de la consommation
et des corporations du Canada, Hull

M. Abdallah Chakroun
Directeur des relations extérieures à la Radiodiffusion-
Télévision marocaine, Rabat

Professor Robert Dittrich
Director, Department of Justice, Vienna

M. André Kerever
Maître des requêtes au Conseil d'Etat, Paris

Ms. Barbara Ringer
Register of Copyrights, Copyright Office,
Library of Congress, Washington

Sr. Lic. Fernando Riva Palacio
Director Técnico de la Dirección General del Derecho
de Autor, Secretaría de Educación Pública, México

Mrs. Elisabeth Steup
Ministerialrätin, Bundesministerium der Justiz, Bonn

Mr. Nikolai Voschinin
Head of the Department of International Relations,
Member of the Board, Copyright Agency of the USSR
(VAAP), Moscow

Mr. Willi Weincke
Head of Department, Ministry of Cultural Affairs,
Copenhagen

II. Observers

(a) Intergovernmental Organizations

International Labour Office (ILO): R. Falaize; C. Arcas-
Luque. **Council of Europe:** H.-P. Furrer.

(b) International Non-Governmental Organizations

European Broadcasting Union (EBU): M. Cazé; W. Rum-
phorst. **International Alliance for Diffusion by Wire (AID):**
G. Klemperer; G. Moreau. **International Bureau of the Soci-
eties Administering the Rights of Mechanical Recordings
and Reproduction (BIEM):** J. Elissabide. **International Con-
federation of Professional and Intellectual Workers (CIT):**
G. Pouille; R. Berquier. **International Confederation of Soci-
eties of Authors and Composers (CISAC):** J.-L. Tournier;
D. de Freitas; C. Joubert; J.-A. Ziegler. **International Copy-
right Society (INTERGU):** G. Halla. **International Federation
for Documentation (FID):** P. Poindron. **International Fed-
eration of Actors (FIA):** F. Delahalle; G. Croasdel. **Interna-
tional Federation of Film Distributors Associations (FIAD):**
G. Grégoire. **International Federation of Film Producers
Associations (FIAPF):** A. Brisson; S. F. Gronich; M. Ferrara
Santamaria; S. Schreiber. **International Federation of Mus-
icians:** R. Leuzinger. **International Federation of Pro-
ducers of Phonograms and Videograms (IFPI):** G. Davies;
E. Thompson; H. T. E. Clarys. **International Film and Tele-
vision Council (ICT):** P.-H. Pisani. **International Hotel
Association (AIH):** J. Connan. **International Literary and
Artistic Association (ALAI):** H. Desbois; D. Gaudel; F. Van
Isacker. **International Music Council (CIM):** R. Leuzinger.
International Publishers Association (IPA): J. A. Koutchou-
mow; J. Fleurent-Didier. **International Union of Cinematog-
raph Exhibitors (UIEC):** J. Handl. **International Writers
Guild (IWG):** R. Fernay; E. Le Bris.

III. Secretariat

World Intellectual Property Organization (WIPO)

C. Masouyé (*Director, Copyright and Public Information
Department*).

United Nations Educational, Scientific and Cultural Organization (UNESCO)

M.-C. Dock (*Director, Copyright Division*); D. de San
(*Lawyer, Copyright Division*).

MALI

Accession to the Paris Act (1971) of the Berne Convention

The Government of the Republic of Mali deposited, on August 22, 1977, its instrument of accession to the Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886, as revised at Paris on July 24, 1971.

The said Convention as revised will enter into force, with respect to the Republic of Mali, three months after the date of this notification, that is, on December 5, 1977.

Berne Notification No. 86, of September 5, 1977.

Conventions Administered by WIPO**Convention for the Protection of Producers of Phonograms
Against Unauthorized Duplication of Their Phonograms**

ZAIRE

Accession to the Convention

The Director General of the World Intellectual Property Organization (WIPO) has informed the Governments of the States invited to the Diplomatic Conference on the Protection of Phonograms* that, according to the notification received from the Secretary-General of the United Nations, the Government of the Republic of Zaire deposited, on July 25, 1977, its instrument of accession to the Convention for the

Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms.

The Convention will enter into force, with respect to the Republic of Zaire, three months after the date of the notification given by the Director General of WIPO, that is, on November 29, 1977.

* Phonograms Notification No. 31, of August 29, 1977.

National Legislation

UNITED KINGDOM

The Copyright (International Conventions) (Amendment No. 2) Order 1977

(No. 830, of May 11, 1977, coming into force on June 9, 1977)

1. — (1) This Order may be cited as the Copyright (International Conventions) (Amendment No. 2) Order 1977, and shall come into operation on 9th June 1977.

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

2. — The Copyright (International Conventions) Order 1972 ¹, as amended ², shall be further amended as follows:

- (a) in Schedule 1 (which names the countries of the Berne Copyright Union) there shall be included a reference to the Arab Republic of Egypt;
- (b) in the said Schedule the Bahamas and Poland shall be indicated with an asterisk denoting that they are also party to the Universal Copyright Convention.

3. — This Order shall extend to all the countries mentioned in the Schedule hereto.

¹ See *Copyright*, 1972, p. 180.

² *Ibid.*, 1973, pp. 78, 109, 110, 218 and 250; 1974, p. 235; 1975, p. 177; 1976, pp. 56, 96 and 128; 1977, pp. 47, 69 and 130.

SCHEDULE

Countries to which this Order extends

Bermuda	Gibraltar
Belize	Hong Kong
British Virgin Islands	Isle of Man
Cayman Islands	Montserrat
Falkland Islands and Dependencies	St. Helena and its Dependencies

EXPLANATORY NOTE

(This Note is not part of the Order)

This Order further amends the Copyright (International Conventions) Order 1972. It takes account of the accession of the Arab Republic of Egypt to the Berne Copyright Convention and of the Bahamas and Poland to the Universal Copyright Convention.

The Order extends to dependent countries of the Commonwealth to which the 1972 Order extends.

General Studies

Reprography and Scientific Publications: The Creation of a Form or the Retailing of Ideas? (Contribution to the Study of the Relationship Between Copyright and Culture)

Xavier DESJEUX *

Correspondence

Letter from Japan

Yoshio NOMURA *

International Activities

International Confederation of Societies of Authors and Composers (CISAC)

International Meeting on the Protection of Authors of Plastic and Graphic Arts

(Paris, May 16 and 17, 1977)

This meeting, organized by CISAC, was devoted to the problems raised by the protection of the rights of authors of works in the field of plastic and graphic arts.

The meeting was attended by representatives of authors' societies and associations of creative artists from the following 14 countries: Belgium, Denmark, France, Germany (Federal Republic of), Hungary, Italy, Netherlands, Norway, Poland, Senegal, Soviet Union, Sweden, United Kingdom, United States of America. Observers from a number of intergovernmental and international non-governmental organizations were also present. WIPO, invited in an observer capacity, was represented by Mr. Mihailo Stojanović, Head, Legislation and Periodicals Section, Copyright Division.

The sessions were chaired by Mr. Wladimir Duchemin, Secretary-General of SPADEM (France).

The discussions concerned in particular the *droit de suite*, the respect for the author's name and his work, and the exercise of the right of reproduction. At the outcome of their debates, the participants adopted two resolutions, which are reproduced below.

Résolutions

I

On the occasion of the International Meeting on the Protection of Authors of Plastic and Graphic Arts which was held at Paris on May 16 and 17, 1977, on the initiative and at the invitation of CISAC, the representatives of the authors' societies and associations of creative artists of States belonging to the European Economic Community adopted the following Resolution:

- 1) The *droit de suite* is an individual and essential right of artists in the fields of the graphic and plastic arts that grants them a material share in the exploitation of their works. It figures among the authors' rights expressly covered by the Berne Convention and has been recently adopted into the Tunisian Model Copyright Law for use in developing countries.

- 2) The aforesaid representatives have learned with interest of the draft now being studied by the Commission of the European Communities with a view to bringing about the harmonisation of legislation on the *droit de suite* among the various member States.
- 3) They hope for the generalisation of this right in all countries of the Community and recommend to this effect that it be introduced in countries where it is not yet granted.
- 4) They request in this context that the following proposals be taken into consideration:
 - the *droit de suite* should assure to artists an individual and equitable share in the product of the resale of their works;
 - the *droit de suite* should therefore be calculated on the selling price;
 - the *droit de suite* should be exercisable in cases of a resale, whether by an auctioneer or an art dealer, as well as in cases of private transactions;
 - the *droit de suite* royalty should be collected on behalf of creative artists by their authors' societies or professional associations.

The nationals of the other countries which have taken part in this meeting (United States of America, Hungary, Norway, Poland, Senegal, Soviet Union and Sweden) have noted the present Resolution with great interest.

II

On the occasion of the International Meeting on the Protection of Authors of Plastic and Graphic Arts which was held in Paris on May 16 and 17, 1977, on the initiative and at the invitation of CISAC, the representatives of the authors' societies and associations of creative artists of the following countries: Belgium, Denmark, France, Germany (Federal Republic of), Hungary, Italy, Netherlands, Norway, Poland, Senegal, Soviet Union, Sweden, United Kingdom and United States of America adopted the following Resolution:

They request CISAC's Administrative Council to be so good as to envisage the creation within it of an International Council of Authors of Graphic, Plastic Arts and Photographers which would devote itself to the study of all questions concerning the moral and material interests of the creative workers in these fields and of the organisations representing them.

Calendar

WIPO Meetings

(Not all WIPO meetings are listed. Dates are subject to possible changes.)

1977

- September 26 to October 4 (Geneva) — WIPO Coordination Committee; Executive Committees of the Paris and Berne Unions; Assembly and Committee of Directors of the Madrid Union**
- October 10 to 18 (Geneva) — Patent Cooperation Treaty (PCT) — Interim Committees**
- October 17 to 28 (London) — International Patent Classification (IPC) — Working Group III**
- October 24 to 28 (Paris) — ICIREPAT — Technical Committee for Standardization (TCST)**
- October 24 to November 2 (Geneva) — Nice Union — Temporary Working Group on the Alphabetical List of Goods and Services**
- October 25 to 28 (Bangkok) — Development Cooperation — Asian/Pacific Seminar on the Protection of Performers, Producers of Phonograms and Broadcasting Organizations**
Note: Meeting convened jointly with ILO and Unesco
- November 7 to 11 (Geneva) — Development Cooperation — Working Group on the Model Law for Developing Countries on Marks and Trade Names**
- November 7 to 11 (Geneva) — ICIREPAT — Technical Committee for Search Systems (TCSS)**
- November 14 to 18 (Geneva) — Working Group Entrusted with Questions of Special Interest to Developing Countries (Working Group set up by the Preparatory Intergovernmental Committee on the Revision of the Paris Convention)**
- November 14 to 18 (Geneva) — Group of 77 and other Developing Countries participating in the Preparatory Intergovernmental Committee on the Revision of the Paris Convention**
- November 14 to 21 (Geneva) — International Patent Classification (IPC) — Steering Committee**
- November 21 to 25 (Geneva) — Preparatory Intergovernmental Committee on the Revision of the Paris Convention**
- November 22 to 25 (Geneva) — International Patent Classification (IPC) — Committee of Experts**
- November 28 to December 6 (Paris) — Berne Union — Executive Committee — Extraordinary Session**
- December 7 to 9 (Geneva) — International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations — Intergovernmental Committee — Ordinary Session (organized jointly with ILO and Unesco)**
- December 8 and 9 (Geneva) — Berne Union — Working Group on the Rationalization of the Publication of Laws and Treaties in the Fields of Copyright and Neighboring Rights**

1978

- March 6 to 10 (Geneva) — Permanent Program — Working Group on Technological Information derived from Patent Documentation**
- March 13 to 15 and 17 (Geneva) — Permanent Program — Permanent Committee for Development Cooperation Related to Industrial Property**
- March 16, 17 and 20 (Geneva) — Permanent Program — Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights**
- July 3 to 13 (Paris) — Berne Union — Committee of Governmental Experts on Double Taxation of Copyright Royalties**
Note: Meeting convened jointly with Unesco
- September 26 to October 2 (Geneva) — WIPO Coordination Committee; Executive Committees of the Paris and Berne Unions**

1979

- September 24 to October 2 (Geneva) — WIPO General Assembly, Conference and Coordination Committee; Assemblies of the Paris, Madrid, Hague, Nice, Lisbon, Locarno, IPC and Berne Unions; Conferences of Representatives of the Paris, Hague, Nice and Berne Unions; Executive Committees of the Paris and Berne Unions; Committee of Directors of the Madrid Union; Council of the Lisbon Union**

UPOV Meetings in 1977

Council: December 6 to 9

Consultative Committee: December 5 and 9

Technical Steering Committee: November 15 to 17

Note: The above meetings will take place in Geneva at the headquarters of UPOV

Meetings of Other International Organizations Concerned with Intellectual Property 1977

October 11 to 14 (Williamsburg, Va) — Pacific Industrial Property Association — Congress

October 24 to 26 (Belgrade) — Council of the Professional Photographers of Europe (EUROPHOT) — Congress

November 28 to December 6 (Paris) — United Nations Educational, Scientific and Cultural Organization (UNESCO) — Intergovernmental Copyright Committee established by the Universal Copyright Convention (as revised at Paris in 1971)

1978

May 8 to 12 (Strasbourg) — Council of Europe — Legal Committee on Broadcasting and Television

May 12 to 20 (Munich) — International Association for the Protection of Industrial Property — Congress

May 16 to 18 (Athens) — International Copyright Society (INTERGU) — Congress

May 29 to June 3 (Paris) — International Literary and Artistic Association — Congress

September 25 to 29 (Toronto) — International Confederation of Societies of Authors and Composers — Congress

October 1 to 7 (Santiago de Compostela) — International Federation of Patent Agents — Congress