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# Copyright

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World Intellectual Property Organization (WIPO)

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## World Intellectual Property Organization

### EL SALVADOR

#### Accession to the WIPO Convention

The Government of the Republic of El Salvador deposited, on June 18, 1979, its instrument of accession to the Convention Establishing the World Intellectual Property Organization (WIPO).

The Convention Establishing the World Intellectual Property Organization will enter into force, with

respect to the Republic of El Salvador, three months after the date of deposit of its instrument of accession, that is, on September 18, 1979.

WIPO Notification No. 105, of June 19, 1979.

## Berne Union

### Working Group on Copyright Problems Arising from the Use of Computers

(Geneva, May 28 to 31, 1979)

#### Report

prepared by the Secretariat and adopted by the Working Group

#### Introduction

1. In accordance with the recommendations made by the Executive Committee of the Berne Union and the Intergovernmental Copyright Committee (hereinafter referred to as "the Copyright Committees") at their sessions held in Paris in December 1977, and the deliberations at their sessions in Geneva in February 1979, and in implementation of the decisions of the respective governing bodies of Unesco and WIPO, the Secretariat of Unesco and the International Bureau of WIPO convened a Working Group comprised of intergovernmental and international non-governmental organizations concerned. The

Working Group met at the headquarters of WIPO in Geneva from May 28 to 31, 1979, to study, with the help of consultants, the copyright problems arising from the use of computers and related facilities for access to or the creation of works. The meeting was attended by representatives of one intergovernmental organization and seven international non-governmental organizations, in addition to three consultants. The list of participants is annexed to this report.

2. The documentation available to the Working Group consisted of reports prepared by Professor Ulmer and Mr. Risset, respectively on copyright problems arising from the use of computers for access

to works and the copyright problems arising from the use of computers for creation of works (documents UNESCO/WIPO/GTO/2 and 3), as also the comments received from States concerning reports submitted earlier to the Copyright Committees at their December 1977 sessions (document UNESCO/WIPO/GTO/4).

#### Opening of the Meeting

3. The meeting was opened by Mr. Claude Masouyé, Director, Copyright and Public Information Department (WIPO), who welcomed the participants on behalf of the joint Secretariat.

#### Election of Chairman

4. The Working Group unanimously elected Professor Eugen Ulmer as its Chairman.

#### Copyright Problems Arising from the Use of Computers for the Storage and Retrieval of Protected Works

5. The debate started with the consideration of copyright problems arising from the use of computers for the storage and retrieval of protected works, based on document UNESCO/WIPO/GTO/2.

6. After a brief introduction by the Chairman, who also was the author of the report<sup>1</sup> contained in the said document, the Working Group decided to examine a number of specific problems raised therein.

7. The first question was that of the difference between various *methods of utilization* of works protected by copyright, such as the index, the abstracts and the full-text method. It was agreed that the full-text method of unauthorized storage and retrieval of works amounts to infringement of the rights of copyright owners, except in the case of particular categories of works expressly excluded from protection under national legislation. On the contrary, the Working Group was of the opinion that there is no infringement when the usual particulars of authors, title, publisher, etc. (the index method), are stored in a computer. The most difficult question was that of abstracts. Distinction was made between the cases in which such abstracts intended for computer storage are prepared by the author himself, or by an employee of the publisher, and those in which they are prepared by the owner of the computer or under his control. In the first case it was assumed that there could not be any infringement of copyright in the work itself, since the abstract is established by the author himself or with his consent. Nevertheless, there may exist a copyright in the abstract and the storage of such abstract in the computer and its retrieval may constitute an infringement of this copy-

right if there is no permission granted by the author of the abstract for the purpose. In the second case the consent of the author of the full text must be obtained, as substantial abstracts might, *inter alia*, affect the sale of copies of a work. In this connection, it was emphasized that the term "substantial" does not mean only the size of the abstract, but much more its content which sometimes is capable of replacing the reading of the full text. Reference by way of analogy was also made to the debates, at the Stockholm Conference (1967) for the revision of the Berne Convention, concerning the deletion from Article 10 of the said Convention of the word "short" in the context of quotations.

8. Another important problem was whether the compilation of information intended to be stored in an automated *data base* is eligible for copyright protection. The general opinion was that such compilation should be considered as protected according to general rules governing the protection of that category of works, subject to their meeting the necessary requirements provided for in the national legislation. The new Copyright Law (1976) of the United States of America was mentioned as an example of national legislation where a data base is considered to be a compilation and thus a proper subject for copyright. In principle such a compilation is a collective work protected by copyright, the main criterion for its protection being a certain degree of originality (it may be doubtful whether, for instance, a telephone directory could be considered as satisfying that criterion) and a creative effort. As for updating of the data base, the Working Group considered that a mere addition of information does not necessarily constitute a creative element sufficient to justify protection. In order to obtain copyright protection, the compilation itself or its updating must be the result of a creative effort. In this connection, reference was made to Article 2(5) of the Berne Convention which provides for protection of collections which, by reason of the selection and arrangement of their contents, constitute intellectual creations.

9. As for the ownership in such compilations, the Working Group considered that this was a matter left to national legislation and jurisprudence. The Working Group noted, in this connection, the difference of opinion which exists among the countries. Certain legislations attribute the ownership of rights to the employer and others to the employees. However, it appeared to the Working Group that in practice there was no great difference in this matter since there is always the possibility for the copyright owner to assign the rights to the proprietor of the computer. The Working Group was of the opinion that the author should not be the person who introduces the data into the computer, but the person who establishes the compilation before its recording.

<sup>1</sup> Editor's Note: See below, p. 200.

10. The Working Group also noted that the rules concerning the term of protection of works remained applicable, however, without any great impact, since within the expiry of the said term the information compiled was likely to become obsolete.

11. One of the most important questions discussed was whether the *input* of protected material constitutes, in the absence of the authorization given by the owner of copyright, infringement of the copyright, or only the output. There seemed to be considerable agreement in favor of the opinion according to which input constitutes reproduction within the meaning given to that term under international conventions and national legislation; on the other hand, the Working Group noted that there were still some doubts in this regard among the concerned circles in view of the rapid technological developments in the computer field and because of the modalities of utilization of data banks. It concluded by expressing its belief that input (including the fixation in the internal memory of a computer) should be considered as amounting to reproduction, especially since output did not necessarily involve any infringement of copyright and that the necessary authorization should be required at the input stage. At the international level, this opinion seemed to be in conformity with the wording of the relevant provisions of the Berne Convention (Article 9(1)) and the Universal Copyright Convention (Article IV<sup>bis</sup>.1). The Working Group noted that certain legislations recognized a right of distribution separately from the right of reproduction. However, it also noted that under these legislations the reproduction itself may infringe copyright, since it may endanger the legitimate interests of the authors.

12. Another question in this connection was whether and in which cases the *output* of works stored in computers may also be considered an infringement of copyright. The Working Group agreed that, when the output takes place in the form of hard-copy print-out, it should be considered as reproduction, subject to exceptions provided for under national legislation. Whether the reproduction would constitute publication will depend on whether copies are distributed or otherwise made available to the public, provided that the availability of these copies is such as to satisfy the reasonable requirements of the public, having regard to the nature of the work (see Berne Convention, Article 3(3)). If, however, the output takes the form of projection of stored material in the form of visual images on a screen or tube, in most cases it amounts to public performance; according to certain legislations, such performance takes place even if the images are seen by a number of persons sequentially. In so far as the author's consent is required for the input, the relevant agreements con-

cluded between the copyright owners and the users can also settle matters concerning the output.

13. In this connection, the Working Group examined the problem of facilitating access to works by means of this new technology and, in particular, the possibility of introducing *compulsory licenses*, as suggested in the comments made by some States. It was remarked that, while such licenses might be possible in the case of reproduction, under the conditions specified in Article 9(2) of the Berne Convention, they would not be compatible with Article 11 of the said Convention relating to public performance. In this connection, it was noted that the projection, other than by means of wireless diffusion, on a screen or tube cannot be considered as broadcasting within the meaning of Article 11<sup>bis</sup> of the Berne Convention, and that paragraph (2) of that Article providing for the possibility of introduction of compulsory licenses was not applicable. The Working Group also referred to the General Report of the Conference in Paris in 1971 for the revision of the Universal Copyright Convention, as regards in particular Article IV<sup>bis</sup>, paragraph 2, of that Convention. The Working Group noted that this provision did not allow the introduction of a general system of compulsory licenses for all types of works with respect to a particular form of use; the utilization for storage and retrieval is one such particular form of use; if one abides by the rule in the said General Report, a compulsory license could be provided by States party to the Universal Copyright Convention only for works of a specific type, and not for all categories of works.

14. In any case, the Working Group was of the opinion that the introduction of compulsory licenses in this field would be premature and that preference should be given to other systems based on freely negotiated licenses, collective administration of rights, clearing houses, etc.

15. The Working Group also expressed its concern about *moral rights* of authors because the use of computers for access to works multiplies the risks of infringement of these rights (omission of the author's name, distortion or mutilation of works due to technical faults, etc.). While being aware of the necessity to respect the generally accepted principles concerning these rights, the Working Group was of the opinion that normally this was a matter for national legislation.

16. The attention of the Working Group was drawn again to the application of the definition of publication according to the provisions contained in the multilateral copyright conventions. While the fixation in the computer is not a publication, it is the distribution of copies in a sufficient number put at the disposal of the public that constitutes publication. In regard to the concept of publication, it is necessary

to include not only the distribution of copies for sale, but also those on loan or even those distributed free of charge.

### Copyright Problems Arising from the Use of Computers for Creation of Works

17. The discussion was based on document UNESCO/WIPO/GTO/3 containing a report prepared by Mr. Jean-Claude Risset.<sup>2</sup>

18. The Working Group examined various types of use of computers in the creation of musical, artistic and literary works described in detail in the said document, with particular regard to the question of authorship of such works. In doing so, it was guided by the principle that the owner of copyright in such works cannot be the computer itself, but only a person or persons who produce the creative element.

19. The first type of use of computers in the creation of musical works, considered by the Working Group, was that of *automatic musical composition* (the essential characteristic of which is the complete automation of the composition process once the program has been laid down). This fully automated approach to composition constitutes an extreme attitude, and works produced in this way are relatively rare, but upon consideration of the method the Working Group felt that it was appropriate to distinguish between the following three possible cases:

(a) If the program is capable of producing one work only, then the composer who has given instructions or the composer and the programmer whose contribution is a creative one should be considered the author or co-authors of the work, as the case may be; the program itself may not be considered as a subject matter of copyright and may enjoy protection other than through copyright; in the latter case reference was made to the studies undertaken in the framework of WIPO's activities.

(b) If the program is capable of producing different results and the composer has himself made a choice, he should be regarded as the author; if he has asked a programmer or another person to choose the final version, then this programmer or such another person and the composer himself should be regarded as co-authors as soon as they make a creative contribution.

(c) If the program is capable of producing different results but the final choice is made by a third party, the question of authorship remains doubtful. Opinion was expressed that in this case the choice by itself cannot be regarded as a creative contribution.

Generally, the Working Group was of the opinion that technical collaboration which at the same time contributes to the creative efforts results in co-

authorship, which latter is always a matter of fact and cannot be determined by a mere agreement between the interested parties.

20. The second type of use of computers, i. e., the *computer-assisted musical composition* (where the composer asks the machine to explore all the possible consequences of a rule or all ramifications of a variable pattern) did not seem to bring into play any substantially new element, as the score is not worked out automatically without action by the composer. The computer here is only a technical device similar to a camera in the case of photography.

21. As for the other types of use of a computer (*composition by manipulation of musical data, synthesis and processing of sounds, combination of these techniques, and the so-called "matrix work"*), the Working Group was of the opinion that all of them should be regarded as various kinds of adaptation to which appropriate copyright provisions are applicable.

22. The question of depositing with certain societies of authors of transcripts as a proof of works created by computers was raised. In this connection, it was recalled that in the case of acoustic works such a deposit is accepted by some of these societies as in the case of traditional musical works. However, this is not and should not be a condition for copyright protection, but only for purposes of proof of the existence of the particular work. The Working Group felt that this was a matter for internal regulations of the said societies and not for national legislation.

23. When discussing the question of the creation of works of visual arts and literary compositions, the Working Group felt that the opinions expressed above would apply, *mutatis mutandis*, to these categories of works. Here again, it is the creative element which plays a decisive role, and the solution will depend on the circumstances of each particular case. As for the works of visual arts in particular, it was felt that, in accordance with the general rules of copyright, the protection would cover both the final product and possible intermediary stages (blueprint, drawing, model, etc.).

24. The Working Group also briefly discussed the legal aspects of possible translations of literary works with the aid of computers. It was of the opinion that it was premature to take a position on this question for the present.

25. Finally, the Working Group expressed its deep appreciation of the quality of the preparatory documentation, particularly the studies submitted by Professor Ulmer and Mr. Risset. It also appreciated receiving, upon its request, document UNESCO/WIPO/GTO/6, comprising extracts of the relevant portions from the report of the National Commission

<sup>2</sup> Editor's Note: The text of the report will be published in the September issue of this Review.

on New Technological Uses of Copyrighted Works (CONTU) of the United States of America, concerning computers and copyright.

#### Adoption of the Report

26. The Working Group, after having unanimously adopted the present report, noted that this report will be submitted to the next meetings of the Copyright Committees scheduled to be held in Paris in October 1979.

#### Closing of the Meeting

27. After the usual thanks, the Chairman declared the meeting closed.

### List of Participants

#### I. Members of the Working Group

(a) Intergovernmental Organization

Organization of American States (OAS): F. H. De Mendoza.

(b) International Non-Governmental Organizations

European Broadcasting Union (EBU): W. Rumphorst. International Bureau of Societies Administering the Rights of

Mechanical Recording and Reproduction (BIEM): D. de Freitas. International Confederation of Societies of Authors and Composers (CISAC): D. de Freitas. International Copyright Society (INTERGU): G. Halla. International Federation of Musicians (FIM): R. Leuzinger. International Literary and Artistic Association (ALAI): G. Korsakoff; F. Lorient. International Publishers Association (IPA): J. A. Koutchoumow.

#### II. Consultants

A. J. Levine, Former Executive Director, CONTU, Washington.

J.-C. Risset, Director of the Computer Department, Centre national d'art et de culture, Paris.

E. Ulmer, Director emeritus, Max Planck Institute, Munich.

#### III. Secretariat

##### World Intellectual Property Organization (WIPO)

C. Masouyé (*Director, Copyright and Public Information Department*); S. Alikhan (*Director, Copyright Division*); M. Stojanović (*Head, Legislation and Periodicals Section, Copyright Division*).

##### United Nations Educational, Scientific and Cultural Organization (UNESCO)

E. Guerassimov (*Legal Officer, Copyright Division*).

## Conventions Administered by WIPO

### Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite

#### Ratification by the Federal Republic of Germany

The Secretary-General of the United Nations notified the Director General of the World Intellectual Property Organization, on June 15, 1979, that the Government of the Federal Republic of Germany deposited, on May 25, 1979, its instrument of ratification of the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite, adopted at Brussels on May 21, 1974.

The instrument of ratification is accompanied by the following declaration:

The Government of the Federal Republic of Germany herewith declares in pursuance of Arti-

cle 2(2) of the Convention that the protection accorded pursuant to Article 2(1) is restricted in its territory to a period of 25 years after the expiry of the calendar year in which the transmission by satellite has occurred. (*Translation*)

In another declaration accompanying the instrument, the Government of the Federal Republic of Germany stated that the Convention shall also apply to Berlin (West) with effect from the date on which it enters into force for the Federal Republic of Germany.

As regards the entry into force of the Convention, see hereafter.

### Entry into Force

The Secretary-General of the United Nations notified the Director General of the World Intellectual Property Organization that the deposit of the instrument of ratification by the Government of the Federal Republic of Germany has brought to five the number of instruments of ratification, acceptance or accession deposited with him with respect to the Convention. Consequently, in accordance with its Arti-

cle 10(1), the Convention will enter into force on *August 25, 1979*, that is to say, three months after the deposit of the instrument of ratification by the Government of the Federal Republic of Germany.

It is recalled that, as of May 25, 1979, instruments of ratification (R) or accession (A) had been deposited on behalf of the following States:

Nicaragua . . . . .	December 1, 1975	A
Kenya . . . . .	January 6, 1976	R
Mexico . . . . .	March 18, 1976	R
Yugoslavia . . . . .	December 29, 1976	R
Germany, Federal Republic of . . . . .	May 25, 1979	R

## National Legislation

### IVORY COAST

#### Law on the Protection of Intellectual Works

(No. 78-634, of July 28, 1978) \*

#### CHAPTER I

##### General Considerations and Field of Application

*Article 1.* The author of an intellectual work shall, by the mere fact of its creation and without any formality, enjoy an exclusive incorporeal property right in that work, effective against all persons, which is called "copyright" and the protection of which is organized by this Law.

This right includes attributes of an intellectual and moral nature as well as attributes of an economic nature.

*Article 2.* Intellectual works produced abroad by nationals of the Ivory Coast, whether published or

not, enjoy this protection in the same way as if they had been produced in the Ivory Coast.

*Article 3.* The work of foreign nationals that are published for the first time in the Ivory Coast shall, by virtue of this Law, enjoy the same protection as the works of nationals of the Ivory Coast.

Independently of the rules of protection provided for in the international conventions concluded between the Ivory Coast and other countries, the works of foreign nationals that have not been published for the first time in the Ivory Coast shall enjoy the protection organized by this Law subject to the condition that the country of which the original owner of copyright is a national grants equivalent protection to the works of nationals of the Ivory Coast.

The use during the period of protection provided for in this Law of foreign works that do not enjoy

\* Published in the *Journal Officiel de la République de Côte d'Ivoire*, of October 17, 1978; entry into force on the same date. — WIPO translation.

this protection shall nevertheless give rise to the collection of royalties by the professional body of authors referred to in Article 60.

These royalties shall be paid into a special fund managed by that body and shall be used for cultural and social purposes for the benefit of authors of the Ivory Coast.

*Article 4.* A work shall be considered created, independently of any public disclosure, by the mere fact of the author's conception being realized, even incompletely.

## CHAPTER II

### Protected Works and Authors of Works

#### A. Protected Works

*Article 5.* The protection of the rights of authors shall apply to all original works regardless of their kind, merit, purpose or manner or form of expression, and especially to:

- (i) written works (books, pamphlets, articles and other literary, artistic or scientific works);
- (ii) oral works (tales and legends, lectures, addresses, sermons and other works of the same nature);
- (iii) works created for the stage or for broadcasting (sound or visual), including choreographic and mimed works as well as dramatic and dramatico-musical works;
- (iv) musical works with or without words;
- (v) cinematographic works;
- (vi) works of drawing, painting, lithography, etching or wood engraving, and others of the same kind;
- (vii) sculptures of all kinds;
- (viii) works of architecture, including both the plans and models and the construction itself;
- (ix) tapestries and articles created by artistic professions and applied art, including both the sketches or models and the work itself;
- (x) maps, graphic and three-dimensional drawings and reproductions of a scientific or technical nature;
- (xi) photographic works of an artistic or documentary character, to which are assimilated, for the purposes of this Law, works expressed by a process analogous to photography;
- (xii) works of folklore.

*Article 6.* The following shall be protected as original works, without prejudice to the rights of the author of the original work:

- (i) translations, adaptations and arrangements of literary, musical, artistic or scientific works;
- (ii) collections of literary or artistic works such as encyclopedias and anthologies which, by

reason of the selection or arrangement of their contents, constitute intellectual creations;

- (iii) works derived from folklore.

*Article 7.* Folklore shall belong originally to the national heritage.

For the purposes of this Law:

- (i) "folklore" means all literary and artistic productions, passed from generation to generation, which form part of the traditional cultural heritage of the Ivory Coast, the identity of whose author is unknown, but where there is every reason to presume him to be a national of the Ivory Coast;
- (ii) "work derived from folklore" means any work composed of elements borrowed from the traditional cultural heritage of the Ivory Coast;
- (iii) the right of exploitation of folklore shall be administered by the body of authors referred to in Article 60; the public performance and reproduction of folklore with a view to its exploitation for profit-making purposes shall require authorization by that body. Such authorization shall be granted against payment of a royalty, the proceeds from which shall be used for cultural and social purposes for the benefit of authors of the Ivory Coast.

The amount of the royalty shall be determined according to the conditions customary for protected works in the same category.

*Article 8.* The title of an intellectual work shall enjoy the same protection as the work itself in so far as it is original in character.

Even if the work is no longer protected under Articles 24 and 43, no one may use its title to distinguish a work of the same kind if such use is liable to mislead.

*Article 9.* For the purposes of this Law:

- "original work" means a work which, by its characteristic elements and its form, or by its form alone, enables its author to be identified;
- "derived work" means a work based on preexisting elements;
- "work of joint authorship" means a work the creation of which is the result of contributions on the part of two or more authors, whether or not the individual contributions may be distinguished;
- "composite work" means a new work in which a preexisting work is incorporated without the collaboration of the author of the latter;
- "collective work" means a work created on the initiative of a natural person who or legal entity which edits, publishes and discloses it under his or its direction and name, where the personal contributions of the various authors who participated in its creation are merged in the whole for



which they were made, so that it is impossible to attribute to each author a separate right in the whole work once completed;

“posthumous work” means a work made accessible to the public after the death of its author.

### B. Authors of Works

*Article 10.* The author of a work, in the absence of proof to the contrary, is the person or persons under whose name or pseudonym the work is disclosed.

*Article 11.* A work of joint authorship shall belong jointly to the co-authors. The co-authors shall exercise their rights by common consent. In the case of disagreement, the competent jurisdiction shall decide.

Where the contribution of each of the co-authors is of a different kind, each may, in the absence of an agreement to the contrary, exploit his personal contribution separately, without, however, prejudicing the exploitation of the joint work.

*Article 12.* The authors of pseudonymous or anonymous works shall enjoy in such works the rights recognized by Article 1.

They shall be represented, in the exercise of these rights, by the original publisher or editor until such time as they reveal their identity and prove their authorship.

The declaration provided for in the foregoing paragraph may be made by will, provided, however, that rights that may have been acquired previously by third parties shall be preserved.

The provisions of the second and third paragraphs above shall not be applicable when the pseudonym adopted by the author leaves no doubt as to his identity.

*Article 13.* A composite work shall belong to the author who created it, without prejudice to the rights of the author of the preexisting work.

*Article 14.* A collective work, in the absence of proof to the contrary, shall belong to the natural person or legal entity under whose name it is disclosed. Author's rights shall be deemed to rest in that person or entity.

### C. Special Provisions

#### I. Works Made under an Employment Contract and Commissioned Works

*Article 15.* The existence, or the conclusion by the author of an intellectual work, of a contract to make a work, or an employment contract, shall imply no exception to the enjoyment of the right recognized in Article 1.

(1) In the case of a work made by an author under a contract to make a work or an employment contract, the copyright shall belong to the author unless otherwise agreed.

(2) In the case of a commissioned three-dimensional work or work made by painting, photography or otherwise, its author shall not have the right to exploit the work or portrait by any means without the express authorization of the person who commissioned the work. Where manifest abuse on the part of the owner prevents the exercise of the right of disclosure, the competent court may, at the request of the authors, their successors in title or the department responsible for cultural affairs, order any appropriate measure.

### II. Cinematographic Works

*Article 16.* Authorship of a cinematographic work shall be deemed to belong to the natural persons who bring about the intellectual creation thereof.

In the absence of proof to the contrary, the co-authors of a cinematographic work made in collaboration are the authors of the script, the adaptation, the dialogue, and the musical compositions, with or without words, specially composed for the work, and the director of the work.

The author of a protected preexisting work from which a cinematographic work is adapted shall be assimilated to the authors of the new work.

*Article 17.* The maker of a cinematographic work is the natural person or legal entity who or which takes the initiative and responsibility in the making of the work.

The status of maker shall not preclude that of author or co-author within the meaning of Article 16.

Relations between the maker and co-authors of the cinematographic work shall be governed by a written contract which, except in the case of the authors of musical compositions with or without words, shall, unless otherwise provided, imply assignment to the maker of the rights for the cinematographic exploitation of the work, to the exclusion of other rights.

*Article 18.* The maker shall enjoy the right to arrange for the completion of a contribution left incomplete by one of the co-authors, as a result of either refusal or force majeure. Such co-author shall nevertheless, within the limits of the second paragraph of Article 2, enjoy the rights deriving from his contribution to the making of the cinematographic work.

*Article 19.* The director of a cinematographic work is the natural person who assumes the direction of, and the artistic responsibility for, the transforma-

tion into pictures and sound and the cutting of the cinematographic work, as well as the final editing thereof.

*Article 20.* The cinematographic work shall be considered completed as soon as the first master print has been established by common consent between the director, or under certain circumstances the co-authors, and the maker.

### III. Radio or Television Works

*Article 21.* Authorship of a radio or television work shall belong to the natural person or persons who bring about the intellectual creation thereof. The provisions of Article 16, last paragraph, and of Article 18 shall be applicable to radio or television works.

## CHAPTER III

### Scope and Duration of Copyright

#### A. Rights of Authors

*Article 22.* The attributes of an intellectual and moral nature of copyright shall comprise, for the author alone, the right:

- to disclose his work, to determine the means of disclosure, subject to the provisions of Article 17 on cinematographic works, and to lay down the conditions for such disclosure;
- to claim authorship and to protect the integrity of his work; the name of the author shall be indicated every time the work is made accessible to the public.

The author shall have the right of object to any distortion, mutilation or other modification of, and other derogatory action in relation to, his work, which would be prejudicial to his honor or reputation.

The rights referred to in the foregoing paragraphs shall be attached to the person of the author. They shall be perpetual, inalienable and imprescriptible.

On the death of the author, these rights may pass on to his executors.

In the absence of executors or after their death, unless willed otherwise by the author, these rights shall be exercised in the following order:

- by his descendants;
- by the spouse, against whom there exists no final judgment of separation and who has not remarried;
- by heirs other than descendants who inherit all or part of the estate;
- and by universal legatees or donees of all future assets.

These rights may be exercised even after expiration of the exclusive right of exploitation specified in Article 24.

*Article 23.* In the case of manifest abuse in the exercise or non-exercise of the right of disclosure on the part of the deceased author's representatives, any interested party, notably the department responsible for cultural affairs, may refer the matter to the lower courts or their sections, which may order any appropriate measure. The same shall apply in the case of conflict between the said representatives if there is no known successor in title or no heir.

*Article 24.* The economic attributes of copyright shall comprise the exclusive right for the author to authorize the exploitation of his work in any form and to derive monetary benefit from such exploitation.

The right of exploitation shall comprise the right of performance, the right of reproduction and the *droit de suite*.

Performance shall mean the direct communication of the work to the public by any means, notably by:

- (i) public recitation or performance of the work by any means or processes;
- (ii) transmission to the public, by any means, of the recitation or performance of the work;
- (iii) broadcasting of the work or communication of the work to the public by any other means of wireless diffusion of signs, sounds or images;
- (iv) communication of the broadcast work to the public by wire or by rebroadcasting, when such communication is made by an organization other than the original one;
- (v) communication of the broadcast work to the public by loudspeaker or any other analogous instrument transmitting signs, sounds or images, irrespective of the place of reception of the communication.

Reproduction means the material fixation of the work by all methods that permit of indirect communication to the public, notably:

- (i) reproduction of the work in any material form, including the form of a cinematograph film or phonogram, or by graphic or photographic processes;
- (ii) distribution of the work thus reproduced, and in particular public performance of the reproduction made by film or phonogram;
- (iii) translation, adaptation, arrangement or any other transformation of the work.

For the purposes of this Article, "work" means the work both in its original form and in any form derived from the original.

*Article 25.* *Droit de suite* is defined in Article 42 of this Law.

*Article 26.* Unless otherwise provided in this Law, exploitation of the work by another person may not occur without the express written prior authorization given by the author, his heirs or successors in title.

Any complete or partial performance or reproduction made without the authorization provided for in the foregoing paragraph shall be unlawful. The same shall apply to translation, adaptation, arrangement, transformation or reproduction by any means or process.

*Article 27.* Notwithstanding the assignment of his right of exploitation, the author shall enjoy, even after publication of his work, a right of withdrawal in relation to the assignee, provided that he may only exercise this right subject to prior indemnification of the assignee for any prejudice that such withdrawal might cause him.

*Article 28.* The claims of the author attaching to his economic rights are preferential, and shall rank immediately after claims of salaries payable to domestic staff. It shall not be affected by bankruptcy and settlement by the court.

#### **B. Limitations on the Rights of Authors**

*Article 29.* When the work has been lawfully made available to the public, the author may not prohibit:

private performances made exclusively within a family circle which generate no receipts of any kind;

reproductions, translations and adaptations intended for strictly personal and private use, and not intended for collective use, with the exception of works of art;

analyses, press reviews, short quotations justified by the critical, polemic, educational, scientific or informative character of the work.

The same shall apply to the use of literary or artistic works by way of illustration in publications, broadcasts or sound or visual recordings for teaching, provided that such use is not abusive and that it is devoid of any profit-making character.

Such quotations and uses shall be accompanied by a mention of the source and of the name of the author, if that name appears in the source.

*Article 30.* Literary works seen or heard in the course of a current event may, for the purposes of information and in the form of short extracts, be reproduced and made available to the public in a report on that event by means of photography, cinematography or broadcasting or communication to the public by wire.

*Article 31.* Subject to the mention of the name of the author and of the source and provided that the rights of reproduction or broadcasting have not been

expressly reserved for informative purposes, the following may be reproduced by the press or broadcast: articles on current economic, political or religious topics, published in newspapers or periodicals or broadcast;

speeches made at deliberative assemblies, public court hearings, political meetings or official ceremonies.

*Article 32.* Works of art, including architectural works, permanently located in a public place, may be reproduced and made accessible to the public by means of cinematography or television.

*Article 33.* Unless otherwise specified, the authorization for sound or television broadcasting shall cover all free sound or visual communications effected by the radio and television organization by means of its own technical and artistic facilities and on its own responsibility.

Such authorization shall not extend to communications effected in public places such as cafés, restaurants, hotels, cabarets, young people's clubs, various shops, cultural centers and "private" clubs, for which prior authorization has to be sought according to Article 24.

*Article 34.* The radio and television organization may make, for the purposes of its own recorded broadcasts and by means of its own facilities, an ephemeral recording, in one or more copies, of any work which it is authorized to broadcast. Such copies may not be either assigned or lent or hired.

They shall be destroyed within two months of their making, except where the owner of the right of production has expressly agreed to a longer period of preservation.

The aforesaid preservation and destruction shall be under the responsibility of a commission set up within the professional body referred to in Article 60.

*Article 35.* Without prejudice to the right of the author to obtain equitable remuneration, reproductions having exceptional documentary character, and a copy of recordings of cultural value, may be preserved in official archives.

#### **C. Transfer of Copyright**

*Article 36.* The economic attributes of copyright shall be transferable by succession or donation. For the purposes of this Article, the economic attributes of copyright shall be regarded as movable assets.

*Article 37.* Where there is neither heir nor legatee, these rights shall accrue to the professional body of authors referred to in Article 60, and the proceeds of the royalties collected by virtue of those rights shall be used for cultural and social purposes for the benefit of authors of the Ivory Coast, without prejudice to

the rights of creditors and the execution of such contracts of assignment as may have been concluded by the author or his successors in title.

*Article 38.* The right of exploitation may be assigned in whole or in part, free of charge or for a consideration, to a natural person or legal entity. However:

- (i) the assignment shall be evidenced in writing, on pain of nullity;
- (ii) the assignment by the author of any one of the rights referred to in Article 24 shall not imply that of any other of the said rights;
- (iii) where a contract entails total assignment of one right, the effects of that assignment shall be limited to the methods of exploitation provided for in the contract;
- (iv) the person to whom the right of exploitation of a work has been assigned may not, unless otherwise agreed, transfer that right to a third party without the consent of the owner of the right;
- (v) total transfer of future works shall be void.

*Article 39.* The incorporeal property right defined by Article 1 shall be independent of property rights in the material object. The person who acquires that object shall not be invested, by its acquisition, with any of the rights provided for in this Law, except where determined by the provisions of Article 43(3)(c); these rights shall subsist in the person of the author or his successors in title.

Where manifest abuse on the part of the owner prevents the exercise of the right of disclosure, the court may order any appropriate measure.

*Article 40.* The exploitation contract is an agreement of mixed character: while it is civil in respect of the author, it is commercial in respect of the other party if the latter has commercial status.

The contract shall specify the field of exploitation of the rights assigned with respect to scope, place and duration of exploitation, and the remuneration payable to the author or his successors in title as provided in Article 41.

*Article 41.* Assignment for a consideration shall give the author a proportionate share in receipts of any kind deriving from sale or exploitation.

However, the remuneration of the author may be calculated as a lump sum where the basis for calculating a proportionate share cannot be practically determined, or where the nature and the conditions of the exploitation make the application of the rule on proportionate remuneration too costly or impossible.

*Article 42.* Notwithstanding any assignment of the original work, the authors of graphic and three-dimensional works shall have an inalienable right to a

share in the proceeds of any sale of that work by public auction or through a dealer, whatever the methods used by the latter to carry out the operation.

After the author's death, this *droit de suite* shall subsist to the benefit of his heirs or legatees according to the provisions of Article 43(2).

The amount of this share shall be specified by decree.

#### D. Duration of Economic Rights

*Article 43.* (1) The economic rights of the author shall last for his lifetime. On his death, the rights shall subsist during the current calendar year and the 99 years thereafter.

(2) In the case of a work of joint authorship, the economic rights shall subsist for the benefit of all those entitled thereto during the calendar year of the death of the last surviving co-author and the 99 years thereafter.

(3) The economic attributes of copyright shall last for the 99 years following the end of the calendar year during which the work was lawfully made accessible to the public:

- (a) in the case of photographic or cinematographic works or works of applied art;
- (b) in the case of anonymous or pseudonymous works. However, if the pseudonym leaves no doubt as to the identity of the author, or if the author reveals his identity before expiration of this period, the duration of exploitation shall be calculated as provided in paragraph (1) above;
- (c) in the case of posthumous works, these rights shall belong to the author's successors in title if the work is disclosed in the course of the period provided for in paragraph (1) above. If the work is disclosed after expiration of that period, the right shall belong to the owners of the manuscript or originals of the work who effect publication or cause it to be effected.

Posthumous works shall be published separately, except where they constitute only a fragment of a work published previously. They may be joined to previously published works by the same author only if the author's successors in title still have the right of exploitation in those works.

#### E. Performance Contracts and Publishing Contracts

##### I. Performance Contracts

*Article 44.* A performance contract is an agreement under which the author of an intellectual work or his successors in title authorize an entertainment manager to perform the work under conditions determined by them.

A general performance contract is an agreement under which the professional body of authors referred to in Article 60 confers on an entertainment

manager the right to perform, for the duration of the contract, the existing or future works constituting the repertoire of said body under conditions determined by the author or his successors in title.

In the case provided for in the foregoing paragraph, an exception may be made to the provision in Article 38(v).

*Article 45.* "Entertainment manager" means any natural person or legal entity who or which, either occasionally or permanently, performs or causes to be performed in an establishment open to the public, by any means, protected works within the meaning of this Law.

*Article 46.* The entertainment manager who performs protected works within the meaning of this Law or causes such works to be performed is obliged to obtain the prior authorization provided for in Article 26 and to pay the corresponding royalties. The performance contract is concluded for a limited period or for a specified number of communications to the public. Unless an exclusive right is expressly specified, it shall confer no exploitation monopoly on the entertainment manager.

The entertainment manager shall ensure that the public performance takes place under technical conditions which guarantee respect for the author's intellectual and moral rights.

The validity of the exclusive rights granted by a playwright may not exceed five years. Interruption of performances for two consecutive years shall automatically terminate the contract.

*Article 47.* The entertainment manager may not transfer the benefits of his contract without the formal written consent of the author or his representative.

The entertainment manager shall be obliged to inform the author, his successors in title or the professional body of authors referred to in Article 60 of the exact program of public performances, provide them with a documented statement of his receipts and pay them the amount of royalties provided for at the agreed dates.

## II. Publishing Contracts

*Article 48.* A publishing contract is an agreement under which the author or his successors in title assign to a person called the publisher, under specified conditions and for a specified period, the right to manufacture copies of the work or to have such copies manufactured in a specific quantity, on condition that the publisher ensures publication and dissemination thereof.

*Article 49.* The form and mode of expression, the conditions for the making of the publication and the termination clauses shall be specified in the publishing contract.

The publishing contract must indicate the minimum number of copies constituting the first printing, except where provision is made for a minimum of royalties guaranteed by the publisher.

The contract must provide for remuneration of the author or his successors in title proportionate to the proceeds from the exploitation of the work, except in the case of the lump-sum payment provided for in Article 41, second paragraph, and in the case of publication by newspapers and periodicals.

*Article 50.* The author is obliged:

- to guarantee to the publisher the peaceful and, unless otherwise agreed, the exclusive exercise of the right assigned;
- to insure respect for that right and to defend it against any possible infringement thereof;
- to make it possible for the publisher to meet his obligation and, in particular, to deliver to him within the period provided for in the contract the material for publication in a form admitting of normal manufacture.

The publication material shall remain the property of the author.

*Article 51.* The publisher is obliged:

- to effect manufacture, or cause manufacture to be effected, under the conditions, in the form and according to the modes of expression provided for in the contract;
- to make no alteration to the work without the written consent of the author;
- unless otherwise agreed, to cause the name, pseudonym or mark of the author to appear on each of the copies;
- unless specially agreed, to complete publication within a period established by custom within the profession;
- to ensure the permanent and regular exploitation of the work and its commercial distribution according to custom within the profession;
- to return the publication material to the author after completion of manufacture.

*Article 52.* The publisher shall also be required to submit accounts to the author and provide him with all the documentary evidence necessary for establishing the accuracy of those accounts.

In the absence of special conditions provided for in the contract, the author may require that the publisher produce, at least once a year, a statement of the number of copies manufactured in the course of the period under consideration, with details of date and volume of the printing and the number of copies in stock.

Except where otherwise provided by custom or agreement, the statement shall also mention the number of copies sold by the publisher, the number of

unusable copies or copies destroyed by accident or force majeure, and the amount of royalties due or paid to the author.

*Article 53.* Neither the bankruptcy of the publisher nor a settlement approved by the court shall terminate the contract.

Where exploitation of the business is continued by the receiver under the conditions provided for by law, the receiver shall be under all the obligations of the publisher.

In the case of sale of the business, the purchaser shall also be under all the obligations of the seller.

Where the exploitation of the business is not continued by the receiver, and where no sale of the business has taken place within a year following the judgment declaring bankruptcy, the publishing contract may be terminated at the request of the author.

The receiver may not remainder the copies manufactured or sell them out until at least fifteen days have elapsed since he advised the author of his intention by written letter with a request for acknowledgment of receipt.

The author shall have a right of preemption on all or some of the copies. In the absence of an agreement, the purchase price shall be determined by expert opinion.

*Article 54.* The publisher shall not transmit the benefits of a publishing contract to a third party, for or without a valuable consideration, or as a contribution to the assets of a partnership, independently of his business, without first having obtained the authorization of the author.

In the case of sale of the business, where such sale is liable to prejudice seriously the material or moral interests of the author, the latter shall be entitled to obtain reparation, even by means of termination of the contract.

Where the publishing business has been exploited as a partnership or has depended on joint ownership, the allocation of the business to one of the former partners or former joint owners as a result of its dissolution or division shall in no case be considered an assignment.

*Article 55.* The publishing contract shall end, regardless of the cases provided for in the general rules of law or in the foregoing articles, when the publisher destroys all the copies.

Termination shall take place automatically when, after having received a formal notice from the author fixing a suitable period, the publisher has not published the work or, if it is out of print, has not republished it.

The edition shall be considered out of print if two orders for the delivery of copies addressed to the publisher have not been met within six months.

In the event of the author's death, if the work is uncompleted, the contract shall be terminated in respect of the unfinished part of the work, unless otherwise agreed between the publisher and the author's successors in title.

*Article 56.* It shall be lawful for the author to grant a publisher a preferential right for the publication of his future works provided that they relate to a clearly specified kind. This right shall be limited to five new works for each kind, as from the date of signature of the publishing contract concluded in respect of the first work, or to the production achieved within five years as from the same date.

*Article 57.* A contract for publication at the author's expense (*à compte d'auteur*) shall not constitute a publishing contract within the meaning of Article 48.

Under such a contract, the author or his successors in title remit an agreed sum to the publisher, on condition that the latter manufactures copies of the work in quantity, in the form and according to the modes of expression specified in the contract, and ensures its publication and dissemination.

Such a contract constitutes a contract for the making of a work, governed by agreement, usage and the provisions of Articles 1787 *et seq.* of the Civil Code.

*Article 58.* A "shares" contract (*de compte à demi*) shall not constitute a publishing contract within the meaning of Article 48.

Under such a contract, the author or his successors in title commission a publisher to manufacture, at his expense and in quantity, copies of the work in the form and according to the modes of expression specified in the contract, and to ensure their publication and dissemination, subject to a reciprocally contracted agreement to share the profits and losses of exploitation in the proportion specified.

Such a contract constitutes a partnership. It shall be governed by agreement and usage.

## CHAPTER IV

### Public Domain

*Article 59.* On expiration of the terms of protection laid down by this Law, the right of exploitation of works in the public domain shall be administered by the professional body of authors referred to in Article 60.

The public performance and reproduction of such works shall require authorization by this body. Such authorization shall be granted, in the case of an event held for profit-making purposes, against payment of remuneration calculated according to the proceeds from exploitation.

The amount of remuneration shall be equal to half of that applied in respect of works of the same category in the private domain according to prevailing custom, and the provisions of Article 44 shall be applicable.

The proceeds from this remuneration shall be used for cultural and social purposes for the benefit of authors of the Ivory Coast under conditions that shall be laid down by decree.

## CHAPTER V

### Exercise of Copyright

*Article 60.* The exploitation and protection of the rights of authors as defined in this Law shall be entrusted to a body of authors and composers, the functions, organization and operation of which shall be laid down by decree.

This body shall be empowered, to the exclusion of any other natural person or legal entity, to act as agent, for the issue of authorizations and for the collection of royalties deriving therefrom, between the author or his heirs and the users of literary or artistic works.

This body shall manage the interests of the various foreign societies of authors on the national territory, in accordance with such conventions or agreements as it may see fit to conclude with them.

It shall be under the authority of the department in charge of cultural affairs.

## CHAPTER VI

### Procedure and Sanctions

*Article 61.* The professional body of authors may be party to legal proceedings for the defense of the interests entrusted to it.

*Article 62.* Any infringement of any of the moral and economic rights set forth in this Law shall be punished in accordance with the provisions of Articles 425 *et seq.* of the Criminal Code.

*Article 63.* At the request of any author of a work protected by this Law, his successors in title or the professional body of authors referred to in Article 60, the police commissioners or officers of the *gendarmerie* shall be obliged to seize the copies constituting an unlawful reproduction of that work, and the president of the lower court or of its individual sections may order, subject to a surety where appropriate:

the seizure in any place, even at hours other than those specified by the Code of Civil Procedure, of copies of an unlawfully reproduced work, whether manufactured or in the course of manufacture;

the seizure of receipts from any unlawfully made reproduction or communication to the public;

the suspension of any manufacture or public performance, in progress or announced, which constitutes an infringement or an act preparatory to infringement;

any other measures that may be judged necessary.

The above provisions shall apply in the case of unauthorized exploitation of folklore or of a work in the public domain.

*Article 64.* The distrainee or garnishee may apply to the magistrate who ordered the seizure to pronounce the end of that seizure or to limit its effects or to authorize the resumption of manufacture or public performances under the authority of an administrator appointed as a receiver of the proceeds from this manufacture or exploitation on behalf of the person entitled thereto.

*Article 65.* If the demand of the distrainee or garnishee is allowed, the petitioner may be ordered to deposit a sum applicable as a guarantee for damages to which the author might be entitled.

*Article 66.* Measures ordered under Article 63 shall be ended automatically in the event of a non-suit or *nolle prosequi* order.

*Article 67.* Unless criminal proceedings are in progress, the said measures shall also be ended automatically where the plaintiff has failed to refer the matter to the competent civil jurisdiction within 30 days.

*Article 68.* The professional body of authors shall be authorized to appoint sworn representatives empowered to supervise the application of the provisions of this Law on the national territory and to report infringements.

*Article 69.* The authorities of all kinds, and in particular the police and *gendarmerie*, shall be bound, at the request of representatives of the professional body of authors, to afford assistance and, where appropriate, protection to the latter.

The competent administrations shall not grant entertainment managers any license or authorization before the latter have presented the authorization issued by the professional body of authors.

*Article 70.* The legal entity which or natural person who has allowed works protected under this Law to be unlawfully reproduced or communicated to the public in its or his establishment shall be considered responsible for illicit reproduction or communication to the public, jointly with any other person, official or not, who has actually committed the infringement.

*Article 71.* Any person who exploits a work of folklore or a work in the public domain and who has failed to obtain prior authorization from the professional body of authors shall be liable to the penalties provided for third-class offenses.

*Article 72.* In the case of infringement of the provisions of Article 42, the purchaser, the seller and the person responsible for carrying out the sale by public auction may be pronounced jointly liable to damages in favor of the beneficiaries of the *droit de suite*.

## CHAPTER VII

### Transitional and Miscellaneous Provisions

*Article 73.* All prior provisions contrary to those of this Law are repealed, in particular Law No. 57-298 of March 11, 1957, and Decree No. 58-447 of April 19, 1958.

*Article 74.* The procedure for the implementation of this Law, and especially Articles 35, 42, 59, 60 and 68, shall be specified by decree.

*Article 75.* Until a date which shall be fixed by the decree on Article 60, properly constituted professional bodies of authors shall exercise, provisionally and subject to the provisions of this Law, the activities assigned to the professional body of authors referred to in Article 60.

Contracts entered into prior to the entry into force of this Law shall continue to apply as of right until they expire and shall be governed by it.

*Article 76.* This Law shall be applied as a Law of the State and shall be published in the *Journal Officiel* of the Republic of the Ivory Coast.

## General Studies

### Problems Arising from the Use of Electronic Computers and Related Facilities for Storage and Retrieval of Copyright Works

Eugen ULMER \*









**The Legal Status of the Publicity Phonogram under the Copyright Law**

Eduardo José V. MANSO \*

















## Conventions Not Administered by WIPO

### Universal Copyright Convention as revised in 1971

#### EL SALVADOR

##### Accession

The instrument of accession by El Salvador to the Universal Copyright Convention as revised at Paris on July 24, 1971, and annexed Protocols 1 and 2 was deposited with the Director-General of Unesco on December 29, 1978.

Under the terms of its Article IX, paragraph 2, the Convention came into force, in respect of El Salvador, three months after the date of deposit.

With regard to the Protocols, in conformity with their respective paragraphs 2(b), they entered into force, in respect of El Salvador, on the same date as the Convention.

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## Calendar

### WIPO Meetings

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

#### 1979

- September 11 to 14 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Patent Information for Developing Countries**
- September 17 to 20 (Geneva) — Development Cooperation (Copyright) — Working Group on Support to National Authors and Performers**
- September 17 to 21 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Planning**
- September 24 to October 2 (Geneva) — Governing Bodies (WIPO General Assembly, Conference and Coordination Committee; Assemblies of the Paris, Madrid, Hague, Nice, Lisbon, Locarno, IPC, PCT 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)**
- October 15 to 26 (Geneva) — Nice Union — Committee of Experts**
- October 18 and 19 (Geneva) — ICIREPAT — Plenary Committee**
- October 22 to 26 (Geneva) — Permanent Committee on Patent Information (PCPI), and PCT Committee for Technical Cooperation (PCT/CTC)**
- October 22, 23 and 30 (Paris) — Rome Convention — Intergovernmental Committee (convened jointly with ILO and Unesco)**
- October 24 to 26 and 31 (Paris) — Berne Union — Executive Committee — Extraordinary Session (sitting together, for the discussion of certain items, with the Intergovernmental Committee of the Universal Copyright Convention)**
- November 5 to 9 (Buenos Aires) — Development Cooperation (Copyright) — Latin American Seminar on Copyright (convened jointly with Unesco)**
- November 26 to December 13 (Madrid) — Diplomatic Conference on Double Taxation of Copyright Royalties (convened jointly with Unesco)**
- November 27 to 30 (Geneva) — Paris Union — Group of Experts on Computer Software**
- December 3 to 6 (Geneva) — Working Group on Industrial Property Aspects of Consumer Protection**
- December 10 to 14 (Geneva) — International Patent Classification (IPC) — Committee of Experts**

#### 1980

- January 7 to 9 (Geneva) — Development cooperation (Copyright) — Working Group on the Protection of Folklore (convened jointly with Unesco)**
- January 28 to February 1 (Paris) — Committee of Experts on the Model Statutes of the Societies of Authors (convened jointly with Unesco)**
- February 4 to March 4 (Geneva) — Revision of the Paris Convention — Diplomatic Conference**

## **UPOV Meetings**

### **1979**

- September 18 and 19 (Geneva) — Administrative and Legal Committee**
- September 25 to 27 (Wageningen) — Technical Working Party for Forest Trees**
- October 16 and 19 (Geneva) — Consultative Committee**
- October 17 to 19 (Geneva) — Council**
- November 12 to 14 (Geneva) — Technical Committee**
- November 15 and 16 (Geneva) — Administrative and Legal Committee**

## **Other Meetings in the Field of Copyright and/or Neighboring Rights**

### **Non-Governmental Organizations**

#### **1979**

- European Broadcasting Union (EBU)**
  - Legal Committee — September 25 to 28 (Bergen)
- International Federation of Actors (FIA)**
  - Congress — September 25 to 29 (Budapest)
- International Federation of Library Associations (IFLA)**
  - Congress — August 27 to September 1 (Copenhagen)
- International Organization for Standardization (ISO)**
  - General Assembly — September 17 to 21 (Geneva)

#### **1980**

- International Confederation of Societies of Authors and Composers (CISAC)**
  - Legal and Legislation Committee — March 20 and 21 (Budapest)
  - Congress — November 3 to 7 (Dakar)
- International Publishers Association (IPA)**
  - Congress — May 18 to 22 (Stockholm)



LEGAL PROTECTION OF PHONOGRAMS

SUMMARY TABLES



GENEVA, 1979



The Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (abbreviated to Phonograms Convention) of October 29, 1971, provides in its Article 8 that the International Bureau of the World Intellectual Property Organization (WIPO) should assemble and publish information concerning the protection of phonograms.

Pursuant to that provision the International Bureau has collected, with the kind cooperation of the International Federation of Producers of Phonograms and Videograms (IFPI), data on the legal position in 82 countries regarding such protection under copyright or neighboring rights legislation or legislation on unfair competition and under international conventions.

This information has been presented by IFPI in the form of summary tables containing the essential elements of the legislative provisions (rights granted, duration of protection, civil remedies and criminal penalties) of each country. Under the name of each country there is a schematic indication of its adherence to international conventions, the letter B meaning "party to the Berne Convention for the Protection of Literary and Artistic Works," the letter P meaning "party to the Paris Convention for the Protection of Industrial Property," the letter U meaning "party to the Universal Copyright Convention," the letter R meaning "party to the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations" and the letters PH meaning "party to the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms."

The information on the contents of the relevant legislations is given concisely, as the reader always has the opportunity of consulting the law itself, the appropriate references being given for each country. The summary tables are intended merely to give interested parties ready information on the law applicable. They may be brought up to date according to legislative developments or in the light of other information received.

This compilation is published by the International Bureau of WIPO in consultation with the International Labour Office (ILO) and the United Nations Educational, Scientific and Cultural Organization (Unesco).

July 1979



States	Rights granted	Duration	Civil remedies	Criminal penalties
<p>ARGENTINA (B.P.U.PH.)</p> <p>Law No. 11.723 on Copyright of September 1933, as amended on June 25, 1976; Decree No. 41233 of 1934 as amended by Decree No. 1.670 of 1974</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 2)</p> <p>(b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Decree 1.670, Art. 1)</p>	---	Seizure and other preventive measures (Art. 79)	Penalties prescribed by Penal Code (Art. 71) and sequestration (Art. 72)
<p>AUSTRALIA (B.P.U.PH.)</p> <p>Copyright Act of June 27, 1968</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 85)</p> <p>(b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 85 equitable remuneration only)</p>	50 years from publication (Art. 93)	Injunction, damages or account of profit (Art. 115); and action for conversion or detention (Art. 116)	First offence - fine up to A\$10 per infringing copy (A\$200 maximum); second offence - same fine or imprisonment for up to 2 months (Art. 133); and destruction, delivery up of infringing copies or plates (Art. 133)
<p>AUSTRIA (B.P.U.R.)</p> <p>Copyright Act of April 9, 1936, as amended on December 29, 1972</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 76(i))</p> <p>(b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 76 (iii) - equitable remuneration only)</p>	50 years from fixation/publication (Art. 76(v))	Injunction (Art. 81), destruction of infringing articles or contrivances (Art. 82); damages or account of profits (Art. 87)	Fine of up to 25,000 Schillings or imprisonment for up to 6 months (Art. 9); destruction of infringing articles and contrivances (Art. 92), and seizure (Art. 93)
<p>BAHAMAS (B.P.U.)</p> <p>United Kingdom Copyright Act of 1956</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 12)</p> <p>(b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 12)</p>	50 years from publication (Art. 12)	Damages, injunction, account of profits or other relief (Art. 17); and action for conversion or detention (Art. 18)	First offence - fine of up to 2 pounds per infringing copy (50 pounds maximum); second offence - same fine or imprisonment for up to 2 months (Art. 21) and destruction, delivery up of infringing copies and plates (Art. 21)
<p>BANGLADESH (U.)</p> <p>Copyright ordinance 1962 as amended on July 25, 1974</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 3(i))</p> <p>(b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 3(ii))</p>	50 years from publication (Art. 20(ii))	Injunction, damages, account of profits (Art. 30) action for possession or conversion (Art. 63)	Fine of up to 5,000 Taka and/or imprisonment for up to 2 years (Art. 66); destruction or delivery up of infringing copies or plates (Art. 73) and seizure (Art. 74)



States	Rights granted	Duration	Civil remedies	Criminal penalties
<p>BARBADOS</p> <p>United Kingdom Copyright Act of 1911</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 19)</p> <p>(b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 19)</p>	50 years from making of original plate (Art. 19)	Injunction, damages or account of profits (Art. 6); and action for possession or conversion (Art. 7)	---
<p>BOTSWANA</p> <p>United Kingdom Copyright Act of 1956</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 12)</p> <p>(b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 12)</p>	50 years from publication (Art. 12)	Damages, injunction, account of profits or other relief (Art. 17) action for conversion or detention (Art. 18)	First offence - fine of up to 2 pounds per infringing copy (50 pounds maximum); second offence - same fine or imprisonment for up to 2 months (Art. 21) and destruction, delivery up of infringing copies and plates (Art. 21)
<p>BRAZIL</p> <p>(B.P.U.R.PH.)</p> <p>Law No. 4944 of April 6, 1966 on Protection of Performers, Producers of Phonograms and Broadcasting Organizations; Law No. 5988 of December 14, 1973, on Copyright</p>	<p>(a) Right against unauthorized duplication of sound recordings (1966 Law Art. 4 and 1973 Law Art. 98)</p> <p>(b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (1966 Law Art. 4 and 1973 Law Art. 98)</p>	60 years from fixation (1973 Law Art. 102)	Seizure, surrender of infringing copies and damages (1973 Law Art. 122-123)	---
<p>BULGARIA</p> <p>(B.P.U.)</p> <p>Law on Copyright of November 16, 1951, as amended on April 28, 1972</p>	Right against unauthorized duplication of sound recordings (Art. 4)	25 years from publication (Art. 18)	Damages (Art. 25); injunction (Art. 26) and surrender or destruction of infringing copies (Art. 27)	---
<p>BURMA</p> <p>United Kingdom Copyright Act of 1911 and the Union of Burma Order 1948</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 19)</p> <p>(b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 19)</p>	50 years from making of original plate (Art. 19)	Injunction, damages or account of profits (Art. 6); and action for possession or conversion (Art. 7)	---





States	Rights granted	Duration	Civil remedies	Criminal penalties
CANADA (B.P.U.) Copyright Statute of June 4, as amended on December 23, 1971	Right against unauthorized duplication of sound re- cordings (Art. 4(iv))	50 years from making original plate (Art. 10)	Injunction, damages or account of profit (Art. 20) and action for pos- session or conversion (Art. 21)	First offence - fine of up to C\$10 per infringing copy (C\$200 maximum); second offence same fine or imprisonment for up to 2 months (Art. 25); and destruction or delivery up of infringing copies or plates (Art. 25)
CHILE (B.U.R.P.H.) Law No. 17.336 of August 28, 1970, on Copyright	Right against unauthorized duplication of sound recor- dings (Art. 68)	30 years from fixation (Art. 68)	Damages, surrender, sale or destruction of infringing copies and impounding of proceeds (Art. 82)	Fines in accordance with official scale (Art. 79)
COLOMBIA (U.R.) Law No. 86 of December 26, 1946, on Copyright	Right against unauthorized duplication of sound re- cordings (Art. 14)	---	Damages (Art. 104) and preventive measures (Art. 107)	Fines from 200 to 500 Pesos and imprisonment from 6 to 12 months (Art. 96); and se- questration and delivery up of infringing copies (Art. 101)
CONGO (B.P.R.) 1961 Rome Convention provi- sions	Right against unauthorized duplication of sound re- cordings	20 years minimum from fixation	---	---
COSTA RICA (B.U.R.) 1961 Rome Convention provi- sions	Right against unauthorized duplication of sound recor- dings	20 years minimum from fixation	---	---
CYPRUS (B.P.) Copyright Law, No. 59 of De- cember 3, 1976, as amended on October 29, 1977	Right against unauthorized duplication of sound recor- dings (Art. 9)	20 years from the end of the year in which the recording was made (Art. 4(2)(iii))	Injunction, damages or account of profits (Art. 13(4))	First offence - fine of up to 2 pounds per copy (500 pounds maximum); and second offence - fine up to a maximum of 1.000 pounds or imprisonment for up to 3 months; and destruction or delivery up, etc. (Art. 14)



States	Rights granted	Duration	Civil remedies	Criminal penalties
<p>CZECHOSLOVAKIA (B.P.U.R.) Law No. 35 of March 25, 1965, on Copyright</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 45(ii)) (b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 45 (ii))</p>	<p>25 years from year of recording (Art. 45(iv))</p>	<p>Injunction and damages (Art. 32)</p>	<p>---</p>
<p>DENMARK (B.P.U.R.PH.) Law No. 158 of May 31, 1961, on Copyright, as amended on March 21, 1973 and June 8, 1977</p>	<p>(a) right against unauthorized duplication of sound recordings (Art. 46) (b) performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 47 - equitable remuneration only)</p>	<p>25 years from year of recording (Art. 46)</p>	<p>Damages (Art. 56) and seizure, destruction or delivery up of infringing copies or materials (Art. 57)</p>	<p>Fine or imprisonment of up to 3 months (Art. 55)</p>
<p>DOMINICAN REPUBLIC (P.) Law No. 1381 of March 17, 1947, on Copyright</p>	<p>(a) right against unauthorized duplication of sound recordings (Art. 2) (b) performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 2)</p>	<p>---</p>	<p>Confiscation or destruction of infringing copies or plates (Art. 36) and damages (Art. 39)</p>	<p>Fine of from 50 to 500 Pesos and/or imprisonment from 1 to 6 months (Art. 32) and confiscation or destruction of infringing copies or plates (Art. 36)</p>
<p>ECUADOR (U.R.PH.) Law No. 610 of August 13, 1976 on Copyright</p>	<p>Right against unauthorized duplication of sound recordings (Art. 19)</p>	<p>---</p>	<p>Seizure and other preventive measures (Art. 120-125)</p>	<p>Fine from 5,000 to 20,000 sucres and/or imprisonment from 6 months to 5 years (Art. 126-129)</p>
<p>EGYPT (B.P.PH.) Unfair competition law</p>	<p>Right against unauthorized duplication of sound recordings</p>	<p>---</p>	<p>---</p>	<p>---</p>



States	Rights granted	Duration	Civil remedies	Criminal penalties
<p>EL SALVADOR (U.R.PH.) Law No. 376 of September 6, 1963</p>	<p>Right against unauthorized duplication of sound recordings (Art. 8)</p>	<p>25 years from date of publication (Art. 61)</p>	<p>Injunction, damages and delivery up of infringing copies (Art. 69), seizure and other preventive measures (Art. 72-73)</p>	<p>---</p>
<p>FIJI (B.U.R.PH.) United Kingdom Copyright Act of 1956</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 12) (b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 12)</p>	<p>50 years from publication (Art. 12)</p>	<p>Damages, injunction, account of profits or other relief (Art. 17) and action for conversion or detention (Art. 18)</p>	<p>First offence - fine of up to 2 pounds per infringing copy (50 pounds maximum), second offence same fine or imprisonment for up to 2 months (Art. 21) and destruction, delivery up of infringing copies and plates (Art. 21)</p>
<p>FINLAND (B.P.U.PH.) Law No. 404 of July 8, 1961, on Copyright, as amended on July 31, 1974</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 46) (b) Performing rights in sound recordings for broadcasting (Art. 47 - equitable remuneration only)</p>	<p>25 years from year of recording (Art. 46)</p>	<p>Damages (Art. 57) and destruction or delivery up of infringing copies or materials (Art. 58)</p>	<p>Fine or imprisonment for not more than 6 months (Art. 56)</p>
<p>FRANCE (B.P.U.PH.) Unfair competition law (Article 1382 of French Civil Code)</p>	<p>Right against unauthorized duplication of sound recordings</p>	<p>---</p>	<p>---</p>	<p>---</p>
<p>GERMAN DEMOCRATIC REPUBLIC (B.P.U.) Copyright Act of September 13, 1965</p>	<p>(a) Right against unauthorized duplication of sound recordings; (Art. 75(a)) (b) Performing rights in sound recordings for broadcasting (Art. 75(b))</p>	<p>10 years from date of recording (Art. 82)</p>	<p>Injunction and damages (Art. 91)</p>	<p>---</p>



States	Rights granted	Duration	Civil remedies	Criminal penalties
GERMANY (FEDERAL REPUBLIC OF) (B.P.U.R.PH.) Copyright Act of September 9, 1965, as amended on March 2, 1974	(a) Right against unauthorized duplication of sound recordings (Art. 85) (b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 86 - equitable remuneration only)	25 years from publication or production (Art. 85(ii))	Injunction, damages (Art. 97); destruction or delivery up of infringing copies or plate (Arts. 98 and 99)	Fine or imprisonment for up to 12 months (Art. 108) destruction or delivery up of infringing copies or plates (Art. 110)
GHANA (P.U.) Copyright Act No. 85 of 1961	Right against unauthorized duplication of sound recordings (Art. 7)	20 years from publication or recording (Articles 2 and 3)	Injunction, damages, destruction or delivery up of infringing copies or other articles (Art. 11)	---
GRENADA United Kingdom Copyright Act of 1956	(a) Right against unauthorized duplication of sound recordings (Art. 12) (b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 12)	50 years from publication (Art. 12)	Damages, injunction, account of profits or other relief (Art. 17); and action for conversion or detention (Art. 18)	First offence - fine of up to 2 pounds per infringing copy (50 pounds maximum); second offence - same fine or imprisonment for up to 2 months (Art. 21) and destruction, delivery up of infringing copies and plates (Art. 21)
GUATEMALA (U.R.PH.) 1961 Rome Convention provisions	Right against unauthorized duplication of sound recordings	20 years minimum from fixation	---	---
GUYANA United Kingdom Copyright Act of 1956	(a) Right against unauthorized duplication of sound recordings (Art. 12) (b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 12)	50 years from publication (Art. 12)	Damages, injunction, account of profits or other relief (Art. 17) and action for conversion or detention (Art. 18)	First offence - fine of up to 2 pounds per infringing copy (50 pounds maximum); second offence - same fine or imprisonment for up to 2 months (Art. 21) and destruction, delivery up of infringing copies and plates (Art. 21)





States	Rights granted	Duration	Civil remedies	Criminal penalties
<p>HOLY SEE (B.P.U.PH.)</p> <p>Italian Law No. 633 of April 22, 1941 on Copyright as amended on August 23, 1946, on May 14, 1974 and on May 5, 1976</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 72)</p> <p>(b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 73 - equitable remuneration only)</p>	<p>30 years from date of deposit of copy and not more than 40 years from making of original record (Art. 75)</p>	<p>Injunction (Art. 156) damages or destruction of infringing materials (Art. 158) and seizure (Arts. 160-161)</p>	<p>Fines from 20,000 to 800,000 Lire (Art. 171-173)</p>
<p>HUNGARY (B.P.U.PH.)</p> <p>Decree Law No. 19 of 1975</p>	<p>Right against unauthorized duplication of sound recordings (Art. 1)</p>	<p>20 years from fixation (Art.1)</p>	<p>As provided under Civil Law (Art. 2)</p>	<p>---</p>
<p>ICELAND (B.P.U.)</p> <p>Copyright Act of May 29, 1972</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 46)</p> <p>(b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 47 - equitable remuneration only)</p>	<p>25 years from date of recording (Art. 46)</p>	<p>Damages (Art. 56)</p>	<p>Fine or imprisonment of up to 3 months (Art. 54) and seizure or delivery up of infringing copies (Art. 55)</p>
<p>INDIA (B.U.PH.)</p> <p>Copyright Act of June 4, 1957</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 14(d))</p> <p>(b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 14(d))</p>	<p>50 years from publication (Art. 27)</p>	<p>Injunction, damages, accounts, etc. (Art.55) action for possession or conversion (Art. 58)</p>	<p>Fine and/or imprisonment for up to 12 months (Art. 63); seizure (Art. 64); delivery up of infringing copies or plates (Art. 66)</p>
<p>IRAN (P.)</p> <p>Copyright Law of 1970 and Law governing Translation and Reproduction of Books and Publications and Reproduction of Recorded Sound Materials of January 6, 1974</p>	<p>Right against unauthorized duplication of sound recordings (1974 Law, Art.3)</p>	<p>30 years from publication or public presentation (1970 Law, Art. 16(ii))</p>	<p>Damages (1974 Law, Art. 7), preventive measures and forfeiture (1974 Law, Art. 9)</p>	<p>Imprisonment from 3 to 12 months (1974 Law, Art. 7)</p>



States	Rights granted	Duration	Civil remedies	Criminal penalties
<p>IRELAND (B.P.U.R.) Copyright Act No. 10 of 1963</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 17(iv)) (b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 17(iv))</p>	<p>50 years from publication (Art. 17(ii))</p>	<p>Injunction, damages or account of profits (Art. 22) and action for conversion or detention (Art. 24)</p>	<p>First offence - fine of up to 5 pounds per infringing copy (Maximum 100 pounds); second offence same fine or imprisonment for up to 6 months (Art. 27(ix)); and destruction or delivery up of infringing copies or plates (Art. 27(xi))</p>
<p>ISRAEL (B.P.U.PH.) United Kingdom Copyright Act of 1911, as modified by Ordinance of 1924 and as amended on July 26, 1971</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 19) (b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 19)</p>	<p>50 years from making of original plate (Art. 19)</p>	<p>Injunction, damages or account of profits (Art. 6) and action for possession or conversion (Art. 7)</p>	<p>First offence - 250 Israeli pounds per infringing copy (5000 Israeli pounds maximum); second offence same fine or imprisonment for 2 months (Ordinance Art. 3); and destruction or delivery up of infringing copies or plates (Ordinance Art. 3)</p>
<p>ITALY (B.P.U.R.PH.) Law No. 633 of April 22, 1941 on Copyright, as amended on August 23, 1946, on May 14, 1974 and on May 5, 1976</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 72) (b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 73 - equitable remuneration only)</p>	<p>30 years from date of deposit of copy or from making of original record if no deposit effected: if deposit effected, not more than 40 years from making of original record (Art. 75)</p>	<p>Injunction (Art. 156), damages or destruction of infringing materials (Art. 158) and seizure (Art. 160-161)</p>	<p>Fines from 20,000 to 800,000 Lire (Art. 171-173)</p>
<p>JAMAICA United Kingdom Copyright Act of 1911</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 19) (b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 19)</p>	<p>50 years from making of original plate (Art. 19)</p>	<p>Injunction, damages or account of profits (Art. 6); and action for possession or conversion (Art. 7)</p>	<p>---</p>



States	Rights granted	Duration	Civil remedies	Criminal penalties
<p>JAPAN (B.P.U.) Law No. 48 of May 6, 1970, on Copyright</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 96) (b) Performing rights in sound recordings for broadcasting (Art. 97 - equitable remuneration only)</p>	<p>20 years from fixation (Art. 101)</p>	<p>Injunction (Art. 112) and damages (Art. 114)</p>	<p>Fine not exceeding 100,000 Yen or imprisonment for up to 12 months (Art. 121)</p>
<p>KENYA (P.U.PH.) Copyright Act, 1966, as amended on April 5, 1975</p>	<p>Right against unauthorized duplication of sound recordings (Art. 9)</p>	<p>20 years from year of recording (Art. 4(ii))</p>	<p>Damages, injunction, account of profits, or other relief (Art. 13)</p>	<p>First offence - fine of up to 30 Shillings per infringing copy (2,000 Shillings maximum); second offence - fine of up to 40 Shillings per infringing copy (4,000 Shillings maximum) or imprisonment for up to 4 months (Art. 13A); destruction or delivery up of infringing copies or articles (Art. 13A)</p>
<p>LEBANON (B.P.U.) Decree No. 2385 of January 17, 1924, on Copyright as amended on January 31, 1946</p>	<p>Right against unauthorized duplication of sound recordings (Art. 145)</p>	<p>---</p>	<p>Damages and/or delivery up of infringing copies (Art. 172); seizure and destruction (Art. 174)</p>	<p>Fine from LL 25 to 250 and/or imprisonment from 1 to 12 months (Art. 170); confiscation of infringing copies (Art. 174)</p>
<p>LIECHTENSTEIN (B.P.U.) Copyright Law of October 26, 1928, as amended on August 8, 1959</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 12) (b) Performing rights in sound recordings; (i) broadcasting right; (ii) public performance right (Art. 12)</p>	<p>--</p>	<p>Seizure, confiscation and other preventive measures (Articles 51 to 53)</p>	<p>Fine of 500 to 5000 Francs (Art. 49)</p>
<p>LUXEMBOURG (B.P.U.R.PH.) Law of September 23, 1975</p>	<p>Right against unauthorized duplication of sound recordings (Art. 8)</p>	<p>20 years from fixation (Art. 12(i))</p>	<p>---</p>	<p>Fines of 5,000 to 100,000 Francs and/or imprisonment for 1 to 6 months. Double penalties for further offences (Arts. 15 and 16)</p>



States	Rights granted	Duration	Civil remedies	Criminal penalties
MALAWI (P.U.) Copyright Act of 1965	Right against unauthorized duplication of sound recordings (Art. 9)	20 years from year of recording (Art. 4(ii))	Damages, injunction, account of profits or other relief (Art. 13)	---
MALAYSIA Copyright Act of 1969, as amended on May 29, 1975	Right against unauthorized duplication of sound recordings (Art. 10)	20 years from year of recording (Art. 5(ii))	Damages, injunction, account of profits and other relief (Art. 14)	Fine of up to M\$2,000 per infringing copy (maximum M\$100,000) (Art. 15)
MALTA (B.P.U.) Copyright Act of 1967	Right against unauthorized duplication of sound recordings (Art. 9)	25 years from year of recording (Art. 4(ii))	Damages, delivery up or other relief (Art. 13)	Fine of from 10 to 500 pounds (Art. 13)
MAURITIUS (P.U.) United Kingdom Copyright Act of 1956	(a) Right against unauthorized duplication of sound recordings (Art. 12) (b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 12)	50 years from publication (Art. 12)	Damages, injunction, account of profits or other relief (Art. 17); and action for conversion, or detention (Art. 18)	First offence - fine of up to 2 pounds per infringing copy (50 pounds maximum); second offence - same fine or imprisonment for up to 2 months (Art. 21) and destruction, delivery up of infringing copies and plates (Art. 21)
MEXICO (B.P.U.R.PH.) 1961 Rome Convention provisions	Right against unauthorized duplication of sound recordings	20 years minimum from fixation	---	---
MONACO (B.P.U.PH.) Unfair competition law	Right against unauthorized duplication of sound recordings	---	---	---
NEPAL Copyright Act of 1966	Right against unauthorized duplication of sound recordings (Art. 15(i))	---	Damages (Art. 17)	Fine of from 100 to 500 Rupees; fourth and subsequent offences - imprisonment for 6 months (Art. 17)





States	Rights granted	Duration	Civil remedies	Criminal penalties
<p>NEW ZEALAND (B.P.U.PH.)</p> <p>Copyright Act of 1962, as amended on December 8, 1971</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 13(v))</p> <p>(b) performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 13(v))</p>	<p>50 years from year of recording (Art. 13 (iii))</p>	<p>Damages, injunction, account of profits or other relief (Art. 24) action for conversion or detention (Art. 25)</p>	<p>First offence - fine of up to 2 pounds per infringing copy (50 pounds maximum); second offence - same fine and/or imprisonment for up to 3 months; destruction or delivery up of infringing copies or plates (Art. 28)</p>
<p>NIGER (B.P.R.)</p> <p>1961 Rome Convention provisions</p>	<p>Right against unauthorized duplication of sound recordings</p>	<p>20 years minimum from fixation</p>	<p>---</p>	<p>---</p>
<p>NIGERIA (P.U.)</p> <p>Decree No. 61 of December 24, 1970</p>	<p>Right against unauthorized duplication of sound recordings (Art. 7)</p>	<p>20 years from year of recording (Art. 2 and Schedule 1)</p>	<p>Damages, injunction, account of profits or other relief (Art. 12)</p>	<p>---</p>
<p>NORWAY (B.P.U.R.PH.)</p> <p>Copyright Law of May 12, 1961, as amended on June 3, 1977, and Fund Law of December 14, 1956</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 45)</p> <p>(b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Fund Law, Art. 1 and 3 - equitable remuneration only)</p>	<p>25 years from year of recording (Art. 45)</p>	<p>Damages (Art. 55), confiscation, destruction, or delivery up of infringing copies (Art. 56)</p>	<p>Fine or imprisonment of up to 3 months (Art. 54)</p>
<p>PAKISTAN (B.U.)</p> <p>Copyright Ordinance of June 2, 1962, as amended on January 31, 1973</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 3 (i))</p> <p>(b) performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 3(i))</p>	<p>50 years from publication (Art. 20(ii))</p>	<p>Injunction, damages, account of profits (Art. 60) action for possession or conversion (Art. 63)</p>	<p>Fine of up to 5,000 Rupees and/or imprisonment for up to 2 years (Art. 66); destruction or delivery up of infringing copies or plates (Art. 73) and seizure (Art. 74)</p>



States	Rights granted	Duration	Civil remedies	Criminal penalties
PANAMA (U.PH.) Unfair competition law	Right against unauthorized duplication of sound recordings	---	---	---
PARAGUAY (U.R.PH.) 1961 Rome Convention provisions	Right against unauthorized duplication of sound recordings	20 years minimum from fixation	---	---
PHILIPPINES (B.P.U.) Decree No. 49 of November 14, 1972, on Intellectual Property	(a) Right against unauthorized duplication of sound recordings (Art. 46) (b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 47 - equitable remuneration only)	20 years from year of recording (Art. 55)	Injunction, damages, impounding during action and destruction of infringing copies (Art. 28)	Fine of from 200 to 2000 Pesos and/or imprisonment for up to 12 months (Art. 29)
POLAND (B.P.U.) Law No. 234 of July 10, 1952, on Copyright as amended on October 23, 1975	(a) Right against unauthorized duplication of sound recordings (Art. 15) (b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 15)	10 years from adaptation of musical work for mechanical instruments (Art. 27)	Injunction and damages (Art. 56)	Fine of up to 30,000 Zlotys and/or imprisonment for up to 12 months (Art. 59)
REPUBLIC OF KOREA Law No. 432 of January 28, 1957, on Copyright and Law No. 1944 of 1967 on Sound Recordings as amended on January 22, 1971	Right against unauthorized duplication of sound recordings (Art. 33)	30 years from publication (Art. 33)	---	Fine not exceeding 500,000 Won and confiscation of infringing copies (1967 Law Art. 13)
ROMANIA (B.P.) Decree No. 321 of June 18, 1956, on Copyright, as amended on December 28, 1968	(a) Right against unauthorized duplication of sound recordings (Art. 3(5)) (b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 3(5) equitable remuneration only)	50 years from publication (Art. 7)	Remedies prescribed by Civil Code (Art. 39)	Fine or imprisonment from 1 to 12 months (Art. 40)



States	Rights granted	Duration	Civil remedies	Criminal penalties
SEYCHELLES United Kingdom Copyright Act of 1956,	(a) Right against unauthorized duplication of sound recordings (Art. 12) (b) Performing rights in sound recordings: (i) broadcasting rights; (ii) public performance rights (Art. 12)	50 years from publication (Art. 12)	Damages, injunction, account of profits or other relief (Art. 17) and action for conversion or detention (Art. 18)	First offence - fine of up to 2 pounds per infringing copy (50 pounds maximum); second offence same fine or imprisonment for up to 2 months (Art. 21) and destruction, delivery up of infringing copies and plates (Art. 21)
SIERRA LEONE Copyright Act of 1965	(a) Right against unauthorized duplication of sound recordings (Art. 14(v)) (b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 14(v))	50 years from publication (Art. 14(iii))	Damages, injunction, account of profits (Art. 19) action for possession or conversion (Art. 20)	First offence - fine of up to 4 leones per infringing copy (100 Leones maximum); second offence - same fine or imprisonment for up to 2 months (Art. 23); destruction or delivery up of infringing copies or plates (Art. 23)
SINGAPORE United Kingdom Copyright Act of 1911 and Copyright (Gramophone Records and Government Broadcasting) Act of 1968	(a) Right against unauthorized duplication of sound recordings (Art. 19) (b) Performing rights in sound recordings (i) broadcasting right, (ii) public performance right (Art. 19); Act of 1968 exempts the Government Broadcasting Organization	50 years from making original plate (Art. 19)	Injunction, damages or account of profits (Art. 6) and action for possession or conversion (Art. 7)	First offence - fine up to S\$1,000; second offence - fine up to S\$2,000 and/or imprisonment up to 12 months (Act of 1968, Art. 3); and delivery up of infringing copies and seizure (Art. 4)
SOVIET UNION (U.P.) Bases of Copyright Law of Soviet Union of December 8, 1961, as amended on February 21, 1973 and Civil Code of the R.S.F.S.R. of June 11, 1964, as amended by Decree of March 1, 1974	(a) Right of reproduction (Civil Code, Art. 479) (b) Performing rights in sound recordings for public performance (Civil Code, Art. 495) (author's remuneration only)	---	Injunction or other preventive measures (Civil Code Art. 499) and damages (Civil Code Art. 500)	---



States	Rights granted	Duration	Civil remedies	Criminal penalties
<p>SPAIN (B.P.U.PH.)</p> <p>Law of January 10, 1879, on Intellectual Property and Decree of July 10, 1942, on Phonographic works</p>	<p>(a) Right against unauthorized duplication of sound recordings (1942 Decree, Art. 3)</p> <p>(b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (1942 Decree, Art. 3)</p>	<p>40 years from date of legal deposit of record or date of registration in Copyright Register (1942 Decree, Art. 5)</p>	<p>Remedies prescribed by general law (Art. 5)</p>	<p>Penalties as prescribed by Penal Code, forfeiture and delivery up of infringing copies (Art. 46)</p>
<p>SRI LANKA (B.P.)</p> <p>United Kingdom Copyright Act of 1911</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 19)</p> <p>(b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 19)</p>	<p>50 years from making of original plate (Art. 19)</p>	<p>Injunction, damages, or account of profits (Art. 6); and action for possession or conversion (Art. 7)</p>	<p>---</p>
<p>SUDAN</p> <p>Copyright Law No. 49 of 1974</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 6)</p> <p>(b) Performing rights in sound recordings: (i) broadcasting right (ii) public performance right (Art. 6)</p>	<p>25 years from publication (Art. 8)</p>	<p>Injunction and damages (Art. 20)</p>	<p>Fine not exceeding 100 LS, confiscation and destruction of infringing copies (Art. 19)</p>
<p>SWEDEN (B.P.U.R.PH.)</p> <p>Law No. 729 of December 30, 1960, on Copyright, as amended on April 22, 1976</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 46)</p> <p>(b) Performing rights in sound recordings for broadcasting (Art. 47 - equitable remuneration only)</p>	<p>25 years from year of recording (Art. 46)</p>	<p>Damages, destruction or delivery up of infringing copies (Art. 54 and 55)</p>	<p>Fine or imprisonment for up to 6 months (Art. 53)</p>





States	Rights granted	Duration	Civil remedies	Criminal penalties
<p>SWITZERLAND (B.P.U.) Copyright Law of December 7, 1922, as amended on June 24, 1955</p>	<p>Right against unauthorized duplication of sound recordings (Art. 4)</p>	---	<p>Remedies prescribed by the Code of Obligations (Art. 44); seizure or other conservatory measures (Art. 52)</p>	<p>Fines of up to 5,000 Francs (Art. 50); penalties as prescribed by Federal Penal Code (Art. 48) seizure and other conservatory measures (Art. 52)</p>
<p>SYRIA (P.) Decree No. 2385 of January 17, 1924, as amended on September 22, 1926</p>	<p>Right against unauthorized duplication of sound recordings (Art. 145)</p>	---	<p>Damages and delivery up or destruction (Articles 172-174)</p>	<p>Fine of from 25 to 500 Syrian pounds and/or imprisonment from 1 to 36 months (Art. 169 and 170) and in case of recidivism fine of from 50 to 100 Syrian pounds and/or imprisonment from 1 to 5 years (Art. 171)</p>
<p>TANZANIA (P.) Copyright Act of 1966</p>	<p>Right against unauthorized duplication of sound recordings (Art. 9)</p>	<p>20 years from year of recording (Art. 4)</p>	<p>Damages, injunction, account of profits or other relief (Art. 13)</p>	---
<p>THAILAND (B.) Copyright Act of June 16, 1931</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 4) (b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 4)</p>	<p>30 years from fixation (Art. 17)</p>	<p>Injunction, account or profits or other relief (Art. 22) and action for possession (Art. 23)</p>	<p>Fine of up to 50 Baht per infringing copy (maximum 500 Baht) (Art. 25)</p>
<p>TRINIDAD AND TOBAGO (P.) United Kingdom Copyright Act of 1911</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 19) (b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 19)</p>	<p>50 years from making of original plate (Art. 19)</p>	<p>Injunction, damages or account of profits (Art. 6) and action for possession or conversion (Art. 7)</p>	---



States	Rights granted	Duration	Civil remedies	Criminal penalties
<p>TURKEY (B.P.)</p> <p>Copyright Law of December 10, 1951 (provisions on unfair competition)</p>	<p>Right against unauthorized duplication of sound recordings (Art. 84)</p>	---	<p>Remedies under unfair competition law (Art. 84)</p>	---
<p>UGANDA (P.)</p> <p>Copyright Act of 1964</p>	<p>Right against unauthorized duplication of sound recordings (Art. 7)</p>	<p>50 years from year of recording or 45 years from year of publication (Art. 2 and Schedule 3)</p>	<p>Damages, injunction and destruction or delivery up of infringing copies or other articles (Art. 11)</p>	---
<p>UNITED KINGDOM (B.P.U.R.PH.)</p> <p>Copyright Act of 1956, as amended on February 17, 1971</p>	<p>(a) Right against unauthorized duplication of sound recordings (Art. 12)</p> <p>(b) Performing rights in sound recordings: (i) broadcasting right; (ii) public performance right (Art. 12)</p>	<p>50 years from year of recording (Art. 12)</p>	<p>Damages, injunction, account of profits or other relief (Art. 17) and action for conversion or detention (Art. 18)</p>	<p>First offence - fine of up to 2 pounds per infringing copy (50 pounds maximum); second offence - same fine or imprisonment for up to 2 months (Art. 21) and destruction, delivery up of infringing copies and plates (Art. 21)</p>
<p>UNITED STATES OF AMERICA (P.U.PH.)</p> <p>US Code Title 17 as amended by Public Law 94-554 of October 19, 1976</p>	<p>Right against unauthorized duplication of sound recordings (Section 114)</p>	<p>75 years from publication or 100 years from date of creation whichever expires first</p>	<p>Injunction, damages, account of profits, impounding during action, destruction of infringing copies and plates (Art. 503 to 505)</p>	<p>First offence - fine of up to \$25,000 and/or imprisonment for up to 12 months; second offence - fine of up to \$50,000 and/or imprisonment for up to 2 years (Article 506)</p>
<p>URUGUAY (B.P.R.)</p> <p>Law No. 9739 of December 15, 1937 as amended on February 25, 1938</p>	<p>Right against unauthorized duplication of sound recordings (Art. 2)</p>	---	<p>Damages, delivery up of profits (Art. 51)</p>	<p>Fines of from 50-300 pesos or corresponding term of imprisonment (Art. 46) and confiscation of infringing copies (Art. 47)</p>
<p>ZAMBIA (U.P.)</p> <p>Copyright Act of March 1, 1965</p>	<p>Right against unauthorized duplication of sound recordings (Art. 9)</p>	<p>20 years from year of recording (Art. 4)</p>	<p>Damages, injunction, account of profits or other relief (Art. 13)</p>	---

