

Published monthly
Annual subscription:
Sw.fr. 105.—
Each monthly issue:
Sw.fr. 12.—

Copyright

17th year - No. 5
May 1981

Monthly Review of the
World Intellectual Property Organization (WIPO)

Contents

WORLD INTELLECTUAL PROPERTY ORGANIZATION

- WIPO Permanent Program for Development Cooperation Related to Copyright and Neighboring Rights. Permanent Committee. Fourth Session (Geneva, March 23 to 25, 1981) 167
- Regional Seminar of WIPO and the Economic Community of the Great Lakes Countries (Gisenyi, March 2 to 4, 1981) 173

CORRESPONDENCE

- Letter from the Netherlands (**D.W.F. Verkade**) 176

BOOK REVIEWS

- Urheber- und Verlagsrecht (**Eugen Ulmer**) 186

CALENDAR OF MEETINGS 187

© WIPO 1981

Any reproduction of official notes or reports, articles and translations of laws or agreements, published in this review, is authorized only with the prior consent of WIPO.

ISSN 0010-8626

World Intellectual Property Organization

WIPO Permanent Program for Development Cooperation Related to Copyright and Neighboring Rights

Permanent Committee

Fourth Session

(Geneva, March 23 to 25, 1981)

Report

prepared by the International Bureau and adopted by the Permanent Committee

1. The WIPO Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights (hereinafter referred to as the "Permanent Committee") held its fourth session in Geneva from March 23 to 25, 1981.

2. The following States members of the Permanent Committee were represented at the session: Australia, Austria, Barbados, Benin, Brazil, Bulgaria, Cameroon, Chile, Congo, Czechoslovakia, Denmark, Finland, France, German Democratic Republic, Germany (Federal Republic of), Guinea, Hungary, India, Israel, Italy, Japan, Kenya, Malawi, Mexico, Morocco, Netherlands, Niger, Norway, Pakistan, Portugal, Senegal, Spain, Sudan, Sweden, Switzerland, United Kingdom, United States of America, Upper Volta, Yemen (39).

3. The following States were represented by observers: Angola, Argentina, Belgium, Honduras, Indonesia, Jamaica, Kuwait, Luxembourg, Madagascar, Malaysia, Mali, Philippines, Qatar, Republic of Korea, Thailand, Tunisia, Turkey, Zaire (18).

4. The following organizations were represented by observers:

- (i) United Nations organizations: United Nations (UN), International Labour Organisation (ILO), United Nations Educational, Scientific and Cultural Organization (UNESCO) (3);
- (ii) other intergovernmental organizations: African Intellectual Property Organization (OAPI), Arab Educational, Cultural and Scientific Or-

ganization (ALECSO), Arab States Broadcasting Union (ASBU) (3);

- (iii) international non-governmental organizations: European Broadcasting Union (EBU); International Bureau of Societies Administering the Rights of Mechanical Recording and Reproduction (BIEM); International Confederation of Professional and Intellectual Workers (CITI); International Confederation of Societies of Authors and Composers (CISAC); International Copyright Society (INTERGU); International Federation of Actors (FIA); International Federation of Associations of Film Distributors (FIAD); International Federation of Film Producers Associations (FIAPF); International Federation of Musicians (FIM); International Federation of Producers of Phonograms and Videograms (IFPI); International Group of Scientific, Technical and Medical Publishers (STM); International Literary and Artistic Association (ALAI); International Publishers Association (IPA) (13).

5. The list of participants is annexed to this report.

Opening of the Session

6. The Director General of WIPO, Dr. Arpad Bogsch, opened the session and welcomed the participants. He drew attention to the objectives of WIPO's Permanent Program for Development Cooperation Related to Copyright and Neighboring Rights, which

were to promote, by all means within the competence of the World Intellectual Property Organization, the encouragement in developing countries of intellectual creation in the literary, scientific and artistic domain; the dissemination in developing countries, under fair and reasonable conditions, of intellectual creations in the literary, scientific and artistic domain protected by the rights of authors (copyright) and by the rights of performing artists, producers of phonograms and broadcasting organizations (“neighboring rights”); and the development of legislation and institutions in the fields of copyright and neighboring rights in developing countries.

Adoption of the Agenda

7. The provisional agenda contained in document CP/DA/IV/1 Rev. was adopted by the Permanent Committee.

Election of Officers

8. The Permanent Committee unanimously elected the following officers: Dr. D. N. Misra (India), Chairman; Mr. David L. Ladd (United States of America) and Dr. Miroslav Jelinek (Czechoslovakia), Vice-Chairmen. Mr. Shahid Alikhan, Director, Developing Countries Division (Copyright), acted as Secretary.

Present Membership of the Permanent Committee

9. The Permanent Committee noted the information contained in document CP/DA/IV/2.

Status of Accessions to or Ratifications of Treaties on Copyright and Neighboring Rights

10. Discussions were based on document CP/DA/IV/3.

11. A number of delegations indicated the status of their adherence to the conventions on copyright and neighboring rights referred to in the document.

12. The delegation of Guinea announced its adherence to the Phonograms Convention.

13. The Delegation of Hungary, while considering separate regulation for avoidance of double taxation of copyright royalties as necessary and justified, stated that its country’s adherence to the Madrid Multilateral Convention had been recommended to, and was under active consideration of the Ministry of Culture and Education.

14. The delegation of India stated that adherence to the Madrid Multilateral Convention was under active consideration; provision in the amending legislation for protection of the rights of performing artists was also being considered.

15. The delegation of Israel stated that, while adherence to the Rome Convention was accepted in principle, certain legislative changes necessary for the purpose were under way.

16. The delegation of Portugal said its country would soon adhere to the Madrid Multilateral Convention.

17. The delegation of Spain stated that its Government was considering adhering to the Rome Convention.

18. Certain delegations stressed the importance of the Berne Convention for the Protection of Literary and Artistic Works which, in their view, was an important treaty providing, as it did, for ‘real’ protection in the field of copyright. For the future of copyright protection both at the domestic and international levels, it was felt that the Berne Convention had a particularly important role to play.

19. In the course of the discussion on the Madrid Multilateral Convention for the Avoidance of Double Taxation of Copyright Royalties, and of its importance from the point of view of authors as well as that of the developing countries, several delegations suggested that the guiding principles and objectives of the said Convention should be made available in clear and concise form to all States in order to facilitate a better understanding of its significance and to promote adherence to the Convention. It was suggested that WIPO might consider bringing out a Guide to the Madrid Multilateral Convention on the same pattern as the Guide to the Berne Convention and the Guide to the Rome and Phonograms Conventions.

20. The Secretariat mentioned that it had taken note of the declarations and the suggestion made for further action.

21. The Permanent Committee noted the information contained in document CP/DA/IV/3 and the statement of the Secretariat, and drew attention of the governments of States not yet party to the Conventions mentioned in the document, to consider the possibility of adherence to the said Conventions; it also drew their attention to the desirability, in order to take advantage of unifying as far as possible the protection of literary and artistic works in the framework of the Berne Union, to join as soon as possible those countries that had adhered to the 1971 Paris Act of the said Convention.

Regional Meetings and Seminars

22. Discussions were based on document CP/DA/IV/4.

23. Several delegations expressed appreciation of WIPO's effort in the organization of regional and national seminars in Latin America and in Africa and wished this activity to be continued as such seminars were found particularly useful in the promotion of knowledge in the fields of copyright and of neighboring rights. Certain delegations underlined the importance of such seminars at the regional levels for groups of countries having the same language medium.

24. Concerning the Seminar on Intellectual Property for newly independent African countries held at Guinea-Bissau, the Committee noted with satisfaction the valuable contribution and useful role of the Brazilian and Portuguese experts who also participated in that meeting.

25. A number of delegations expressed satisfaction at the proposal to hold, jointly with Unesco, seminars on copyright for Caribbean countries at Kingston, Jamaica, in June 1981, and for Asian and Pacific countries in New Delhi, India, immediately prior to the meetings of the Copyright Committees to be held there towards the end of November 1981. In respect of the Asian-Pacific Seminar it was hoped that it would be attended by countries of the region and in particular some of the newly independent countries in the Pacific that had not attended earlier regional meetings and seminars.

26. Some delegations, notably those of Guinea and Mali, referred to proposals made or under way for holding of national or subregional seminars, at Conakry as also for the Saharan States. Upon the request of the Government of Guinea, it was mentioned that WIPO is contemplating the possibility of holding a national seminar in Conakry in order to assist the setting up of appropriate copyright infrastructure.

27. Upon a query from the delegation of Qatar in the context of the establishment of a National Folklore Service in its country, the Secretariat stated that, consequent on the recent preparation by a working group of model provisions for the protection of expressions of folklore, and since folklore was often a matter of interest to several neighboring countries in a region, it was proposed to organize regional meetings to help adapt these in the light of regional requirements. In this context, a regional meeting for the Gulf States could be held in Qatar or such other State in that region as may specifically wish to hold such a meeting. The Secretariat also stated that it had

made a note of the suggestions concerning future regional and national meetings and seminars.

28. The Permanent Committee noted with satisfaction the information contained in document CP/DA/IV/4 as well as the information given and statements made at the meeting.

29. The Permanent Committee also noted the desirability of coordinating activities in this field with regional organizations such as, in Africa, the African Intellectual Property Organization (OAPI) and in respect of Arab countries with the Arab Educational, Cultural and Scientific Organization (ALECSO).

Training

30. Discussions were based on document CP/DA/IV/5.

31. Several delegations expressed considerable appreciation of WIPO's activities in training of developing country personnel in the fields of copyright and of neighboring rights and desired that this program be strengthened and continued.

32. The Permanent Committee expressed its thanks to the countries and organizations that had, during 1979 and 1980, received WIPO trainees in the fields of copyright and neighboring rights.

33. Delegations of several developed and developing countries offered to continue their cooperation in the field of training and to receive trainees in copyright and neighboring rights, and certain other delegations hoped to be able to marshal resources to enable them also to contribute to WIPO's training program. The Permanent Committee expressed its great appreciation of these offers.

34. The Permanent Committee noted in particular that general introductory training courses were proposed to be organized by WIPO in collaboration with the Government of the United Kingdom, the British Copyright Council and the International Federation of Producers of Phonograms and Videograms (IFPI) in London in 1981; in collaboration with the Government of Hungary and the Hungarian Bureau for the Protection of Authors' Rights (Artisjus) in Budapest in 1982; and in collaboration with the Government of the Federal Republic of Germany and the German Foundation for International Development (DSE) in 1983; also that specialized courses will be held in collaboration with the Swiss Society for Authors' Rights in Musical Works (SUISA) in 1981 and perhaps 1982, and in collaboration with the Government of Sweden and the Swedish International Development Authority (SIDA) in Stockholm early in 1982.

35. Suggestions were made by certain delegations on measures for further improving the training program, especially its monitoring and evaluation; sending of evaluation reports of trainees to authorities concerned with having organized the training jointly with WIPO, utilization of offers for individual training, sending of invitations for candidatures for fellowships also to the concerned authorities in developing countries. It was suggested that, since the concept of developed and developing countries cannot always apply in the realm of culture, training programs might embody an even greater degree of exchange of views among various countries in respect of copyright protection than heretofore. It was also suggested that WIPO should explore the possibilities of collaborating with national development cooperation agencies in order to promote knowledge of copyright and neighboring rights within the framework of larger development projects, e. g. in the fields of mass media.

36. The Secretariat stated that all the suggestions made during the discussions would be duly taken into account in planning future training programs.

37. The Permanent Committee noted with satisfaction and approved the activities of the International Bureau as indicated in document CP/DA/IV/5 and also took note of the above statement of the Secretariat.

Advice and Assistance in Legislation, Institutions and Related Matters

38. Discussions were based on document CP/DA/IV/6.

39. In connection with advice and assistance to States through WIPO missions and through comments offered upon request in respect of draft legislation on copyright and/or neighboring rights, several delegations expressed considerable appreciation of and satisfaction with the help given through WIPO missions and advice in this matter.

40. The observer from ALECSO, reaffirming the wish of his organization to cooperate actively with WIPO in the field of copyright, stated that ALECSO was considering formulation of a copyright convention for Arab States, the draft text of which it would send to WIPO for comments.

41. Concerning model statutes for authors' organizations it was suggested that (i) WIPO may jointly with Unesco as also with the African Intellectual Property Organization (OAPI), as appropriate, organize a regional meeting of representatives of ministries in charge of copyright administration and officials designated to head authors' organizations to

be established in African countries concerned, on questions related to the adaptation of the model statutes for institutions administering authors' rights in developing countries, as adopted at a meeting in June 1980, to the needs of these countries; (ii) assistance should be given also to existing authors' societies in overcoming the difficulties faced by them; (iii) the legal basis of the establishment of public institutions to administer the rights of national authors might also be further clarified in the framework of the said model statutes.

42. The observer from the United Nations Educational, Scientific and Cultural Organization (UNESCO) supported the proposal for organizing a regional meeting in Africa on the establishment of authors' organizations; he further referred to the alternative possibilities provided for in the said model statutes in connection with different solutions best suited to the actual needs and requirements in a given country.

43. Several delegations expressed considerable appreciation of the recent publications of WIPO in the fields of copyright and neighboring rights which they found extremely useful.

44. The Committee noted with appreciation that the Guide to the Berne Convention will also be published in Russian, German and Hindi, the latter constituting, according to the delegation of India, the first time a convention of an organization of the United Nations system will be published in an Indian language. It was also noted that the Guide to the Rome and Phonograms Conventions will be published in English and French in April/May 1981, and that the Glossary on Terms of the Law of Copyright and Neighboring Rights would soon be translated into Portuguese and might also be translated into Chinese.

45. The Secretariat stated that it had made a note of the statements and suggestions made by various delegations in respect of the document under discussion.

46. The Permanent Committee noted with satisfaction the contents of document CP/DA/IV/6 and the above-mentioned declaration of the Secretariat.

Support of National Authors and Performers

47. Discussions were based on document CP/DA/IV/7.

48. In this connection the observers from the International Labour Office (ILO) and of Unesco referred to their joint studies concerning the Status of the Artist, which covered a number of difficulties faced by performing artists including questions relating to the impact of technological change, special insurance schemes, etc., and which culminated in the adoption,

by the 21st General Conference of Unesco in Belgrade in October 1980, of a Recommendation of Member States.

49. The Secretariat stated that, while it was keenly aware of the difficulties of performing artists, the activities of WIPO in this field were intended to strengthen the protection of neighboring rights and to help performers through such protection.

50. During the discussions a question was raised by one of the delegations as to the further follow-up action proposed on the recommendations of the Working Group on the Support of National Authors and Performers that met in September 1979. The Secretariat clarified that, in addition to having convened in June 1980 a Committee of Experts (jointly with Unesco) to consider and draft model statutes for institutions administering authors' rights, the International Bureau of WIPO will cooperate upon request with individual governments or groups of governments of developing countries and, at the request of governments concerned, with associations of authors or publishers in developing countries, on the practical measures which are available to them or may be organized in order to secure for them the maximum benefit from copyright protection in their countries and in foreign countries and consequently the maximum encouragement for further creation of their literary and artistic works. Such cooperation will, *inter alia*, take the form of individual or group training in the interested developing country or in foreign countries, study missions and consultations as also cooperative programs with the International Confederation of Societies of Authors and Composers (CISAC) and other entities having vast practical experience in these matters.

51. In response to a question by another delegation concerning study of infrastructure for protection of performing artists, the Secretariat agreed that upon request it could provide for necessary specialized training for concerned officials of the country concerned in this matter.

52. The Permanent Committee noted with considerable appreciation the information contained in document CP/DA/IV/7 as also the above-mentioned statements of the Secretariat.

Survey of the Application of Laws on Copyright and Neighboring Rights and the Practical Administration of Rights Granted by Them

53. Discussions were based on document CP/DA/IV/8.

54. Certain delegations asked for a copy of the 'request for information' earlier sent to their governments in order to assist in expediting a reply in con-

nection with the study being undertaken by the International Bureau of WIPO in this connection. The Secretariat stated that it would gladly comply with this request of the concerned delegations.

55. The Permanent Committee noted the contents of document CP/DA/IV/8 and the statement of the Secretariat.

Protection of Expressions of Folklore

56. Discussions were based on document CP/DA/IV/9.

57. The Secretariat informed the delegates that copies of the report of the second meeting of the Working Group on the Intellectual Property Aspects of Folklore Protection (held at Paris from February 9 to 13, 1981), jointly prepared by the International Bureau and the Secretariat of Unesco, and adopted by the Working Group at Paris, were not yet available but would be mailed in the near future to the delegates. The participants were offered a short information on the most important features of the Model Provisions for National Laws on the Protection of Expressions of Folklore, adopted by the afore-mentioned Working Group.

58. During the discussions delegates stressed the importance of (i) dealing also with aspects of the assignment of fees collected for the use of expressions of folklore, with special regard to possible claims to ownership in the expressions of folklore utilized; (ii) continuing the efforts for providing international protection of expressions of folklore.

59. The delegation of Australia emphasized the usefulness of the Model Provisions also as regards the efforts made in its country in order to provide legal protection of the Australian aboriginal folklore. It also acknowledged the valuable assistance received by the Australian authorities in the study of the precedents to be found in the laws of a number of developing countries which protect their own folklore.

60. The delegation of Spain informed the Permanent Committee about the preparation of the new law on intellectual property in the framework of which a special provision is being proposed on the protection of folklore.

61. The observer from Unesco informed the delegates of the meeting of a Committee of Experts on the Legal Protection of Folklore convened by Unesco at Tunis in 1977; and of the interdisciplinary study pursued by Unesco as regards protection of folklore, also concerning conservation and preservation of same; as regards intellectual property aspects, this work is being done in cooperation with WIPO.

62. The observer from OAPI drew the attention to Annex VII to the OAPI Convention, as revised at Bangui in 1977, which contains detailed provisions on the safeguard and promotion of the cultural heritage. In this context, referring to the legal-technical assistance given to OAPI in the drafting of the said Annex, as well as assistance to several States members of OAPI in the preparation of their national laws, he questioned the compatibility of such laws with the texts adopted at Bangui and expressed the wish that in any case a close coordination should be established in this field between WIPO and OAPI.

63. In conclusion, the Secretariat informed the delegates that (i) the model provisions and the commentary to be prepared thereon by the International Bureau of WIPO and the Secretariat of Unesco will be submitted to the Copyright Committees during their meetings in New Delhi from November 30 to December 7, 1981; (ii) they will later on also be considered by a Committee of governmental experts to be convened by Unesco and WIPO in 1982; (iii) according to the wish expressed by the above-mentioned Working Group, the said model provisions will be studied at the regional level in several meetings, the first of which is going to be held at Bogotá in June 1981, for the Latin American region.

64. The Permanent Committee noted with satisfaction the information received.

Cooperation Among Developing Countries

65. Discussions were based on document CP/DA/IV/10.

66. The observers from ILO and Unesco declared that their organizations would each cooperate, within its competence, with WIPO in promoting and supporting cooperation among developing countries and in providing expert advice to groups of authors, performers, composers and artists in developing countries who may wish to form among them associations or societies on the regional or subregional level, designed to promote their interests in particular in the administration of copyright and neighboring rights.

67. The Permanent Committee noted with satisfaction the activities and projects concerning cooperation among developing countries within the framework of the Permanent Program as indicated in document CP/DA/IV/10.

Proposals for New Activities Within the Framework of the Permanent Program

68. Discussions were based on document CP/DA/IV/11.

69. On a proposal by the delegation of Chile supported by the delegations of Australia, Czechoslovakia, Finland, France, Germany (Federal Republic of), Hungary, Netherlands, Portugal and the United States of America, a study of the problems of home taping and private copying of recordings and private recordings of broadcasts was strongly recommended as also the convocation by WIPO of a worldwide meeting for the purpose. The delegation of the United States of America expressed the wish that the problems posed by reprography of copyrighted works might also be taken up for study in the future program of WIPO.

70. The Secretariat stated that it shall take note of this recommendation in framing its program for the next biennium for approval by the Governing Bodies of WIPO.

71. The Permanent Committee noted the contents of document CP/DA/IV/11, supported the proposal indicated above and noted with satisfaction the statement of the Secretariat in that connection.

Adoption of the Report

72. The Permanent Committee unanimously adopted this report.

Closing of the Session

73. After the usual thanks, the Chairman declared the session closed.

List of Participants

I. Member States

Australia: R. Bell. **Austria:** W. Howadt. **Barbados:** L. Hunte. **Benin:** Y. Saibou. **Brazil:** C. de Souza Amaral; M.-L. Santos Pompeu-Brasil. **Bulgaria:** I. Kotzev. **Cameroon:** S. Nellé. **Chile:** W. Hayes Gonzalez; H. Zamorano. **Congo:** D. Ganga-Bidie. **Czechoslovakia:** M. Jelinek. **Denmark:** B.V. Linstow. **Finland:** J. Liedes. **France:** A. Kerever; J. David; G. Piolé. **German Democratic Republic:** K. Götz. **Germany (Federal Republic of):** M. Möller. **Guinea:** F.M. Camara. **Hungary:** P. Gyertyánfy. **India:** D.N. Misra. **Israel:** M. Gabay; I. Elyashiv. **Italy:** G. Catalini. **Japan:** H. Hayashida. **Kenya:** D. Coward. **Malawi:** M.J.B.A. Msowoya. **Mexico:** J.J. Avelar; J. Castel. **Morocco:** M. Seghrouchni. **Netherlands:** F. Klaver. **Niger:** A. Housseyni; Y. Badje. **Norway:** N. Frisak. **Pakistan:** S. Bashir; A.H.K. Yousufzai. **Portugal:** A.M. Pereira. **Senegal:** A. Sene; S. Diop. **Spain:** M. Valles Rodriguez; E. De La Puente. **Sudan:** J.S. Khalil. **Sweden:** A.H. Olsson. **Switzerland:** J.-L. Marro; M. Jeanrenaud. **United Kingdom:** A. Holt. **United States of America:** D.L. Ladd. **Upper Volta:** A. Ganaba. **Yemen:** H.M. Almagbaly; A.A. Zabara.

II. Observer States

Angola: A. Fernandes Jr. **Argentina:** A.A. Mendez Tronge. **Belgium:** J.-D. Rycx d'Huisnacht. **Honduras:** P. Garay-Alvarado; G. Quesada de Janson. **Indonesia:** W. Martosewoyo; H. Reksodiputro. **Jamaica:** V.E. Betton. **Kuwait:** S. Al Nasf; S. Abduala Ali. **Luxembourg:** E. Emringer. **Madagascar:** O. Raveloson. **Malaysia:** B.B. Othman. **Mali:** M. Coulibaly. **Philippines:** C.V. Espejo. **Qatar:** A.A. Khalifa. **Republic of Korea:** S.-C. Cho. **Thailand:** S. Dhirakaosal; W. Chaowanich. **Tunisia:** A. Ben Jeddou. **Turkey:** E. Tümer. **Zaire:** Z. Botao; E. Esaki Kabeya.

III. Intergovernmental Organizations

United Nations (UN): P. Stone. **International Labour Organization (ILO):** S.C. Cornwell. **United Nations Educational, Scientific and Cultural Organization (UNESCO):** A. Amri. **African Intellectual Property Organization (OAPI):** D. Ekani. **Arab Educational, Cultural and Scientific Organization (ALECSO):** A. Derradji. **Arab States Broadcasting Union (ASBU):** A. Chakroun.

IV. International Non-Governmental Organizations

European Broadcasting Union (EBU): M. Cazé; W. Rumphorst. **International Bureau of Societies Administering the Rights of Mechanical Recording and Reproduction (BIEM):** J. Elissabide. **International Confederation of Professional and Intellectual Workers (CITI):** C. Bernheim. **International Confederation of Societies of Authors and Composers (CISAC):** J.-A. Ziegler. **International Copyright Society (INTERGU):** G. Halla. **International Federation of Actors (FIA):** G. Croasdell. **International Federation of Associations of Film Distributors (FIAD):** G. Grégoire. **International Federation of Film Producers Associations (FIAPF):** A. Brisson. **International Federation of Musicians (FIM):** R. Leuzinger; Y. Burckhardt. **International Federation of Producers of Phonograms and Videograms (IFPI):** J. Hall; G. Davies; E. Thompson. **International Group of Scientific, Technical and Medical Publishers (STM):** J.A. Koutchoumow. **International Literary and Artistic Association (ALAD):** J.A. Koutchoumow. **International Publishers Association (IPA):** J.A. Koutchoumow.

V. International Bureau of WIPO

A. Bogsch (*Director General*); C. Masouyé (*Director, Public Information and Copyright Department*); S. Alikhan (*Director, Developing Countries Division (Copyright)*); I. Thiam (*Director, External Relations Division*); G. Boytha (*Head, Copyright Law Division*).

Regional Seminar of WIPO and the Economic Community of the Great Lakes Countries

(Gisenyi, March 2 to 4, 1981)

Report

Introduction

A Seminar on the Harmonization of Policies and Coordination of Legislation on Copyright and Neighboring Rights was held at Gisenyi, headquarters of the Economic Community of the Great Lakes Countries (CEPGL), in Rwanda, from March 2 to 4, 1981.

It was organized jointly by the World Intellectual Property Organization (WIPO) and the Permanent Executive Secretariat of the CEPGL.

Copyright experts from the three member countries of the CEPGL, namely, Burundi, Rwanda and Zaire, took part in the Seminar; the list of participants is annexed to this report.

The program of the Seminar (document OMPI/CEPGL/DA/1 Rev.) included consideration of the

existing legislation and draft laws of member countries of the CEPGL and discussions on the reports of the participating delegations, which appear in the following documents:

1. *Report by the International Bureau of WIPO*
Reasons for and objective of regional harmonization of copyright and neighboring rights legislation (introductory report).
2. *Report by the Permanent Executive Secretariat of the CEPGL*
State of national copyright and neighboring rights legislation in member countries of the CEPGL.

3. *Report by the Delegation of Rwanda*

Coordination of the preparation of draft legislation on the protection of copyright and neighboring rights.

4. *Report by the Delegation of Burundi*

Experience of Burundi in the implementation of the 1978 Copyright Law.

5. *Report by the Delegation of Zaire*

Experience of Zaire relating to legislation and the authors' society SONECA.

I. General Discussion

The experts considered the problems of relations between national legislations and the international copyright and neighboring rights conventions.

They noted that the protection afforded by the international conventions could only be brought into balance in the member countries of the CEPGL through harmonization of national laws. With that in mind, they also took into account the efforts made to the same end in other regions of the world.

II. Harmonization of Draft Legislation on Copyright and Neighboring Rights

After an in-depth analysis of the similarities of substance and the differences between draft laws, the experts achieved harmonization on the following points:

- (1) the range of protected works, with special reference to the protection of works of folklore and works derived from folklore;
- (2) the content of copyright; in particular, the content of moral rights and the subject of the *droit de suite*;
- (3) the range of limitations on copyright;
- (4) the general rules on authors' contracts, especially cases for termination of contracts;
- (5) the incorporation of the provisions on neighboring rights as an integral part of copyright law;
- (6) the recognition of the three categories of beneficiaries of neighboring rights, namely, performers, producers of phonograms and broadcasting organizations;
- (7) the recognition of the right of performers and producers of phonograms to demand remuneration from broadcasting organizations for the broadcasting of their phonograms.

III. Harmonization of the Statutes of Institutions Administering Copyright and Neighboring Rights

After a general discussion on the various aspects of the operation of an institution administering copyright and neighboring rights in a developing country,

the experts harmonized draft statutes on the following points:

- (1) the tasks of the institution;
- (2) activities related to information on works and the promotion of their distribution;
- (3) authorization to use expressions of folklore and works derived from folklore.

IV. Details of Results

Details of the results of the discussions on items I, II and III above will be recorded in each delegation's report.

V. Recommendations

In view of the results achieved, the participants agreed to recommend the following to their governments:

- (1) promulgation as soon as possible of the draft laws as harmonized in the course of the Seminar;
- (2) accession to the following conventions, in order to make national laws effective in international relations:
 - Convention Establishing the World Intellectual Property Organization (WIPO);
 - Berne Convention for the Protection of Literary and Artistic Works;
 - International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention);
 - Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (Phonograms Convention).
- (3) establishment, within the Permanent Executive Secretariat of the CEPGL, of a department responsible for copyright and neighboring rights matters.

VI. Thanks

The participants greatly appreciated the role played by WIPO in the Seminar and expressed the desire that the assistance afforded by that Organization to the member countries of the CEPGL might continue.

They also expressed their gratitude to the host country and to the CEPGL for having taken the welcome initiative of organizing the Seminar in Gisenyi, requesting the latter at the same time to strengthen the existing cooperation with WIPO.

VII. Adoption of the Report

The experts unanimously adopted this report.

List of Participants**Burundi**

M. Léonidas Ndorere
 Directeur des arts et de la culture
 M. Gabriel Ntagabo
 Responsable du Service théâtre au
 Ministère de la jeunesse, des sports et de la culture

Rwanda

M. Maniragaba Balibutsa
 Directeur général de la culture et des
 beaux-arts au Ministère de l'éducation nationale
 M. Théoneste Mujyanama
 Directeur des affaires juridiques à la
 Présidence de la République
 M. Augustin Sebudanga
 Secrétaire d'administration chargé du droit d'auteur
 et des droits voisins au Ministère de l'éducation nationale

Zaire

M. Isofa Bomolo Oka Nkanga
 Directeur de la III^e Direction, chargé des études, planification
 et coopération culturelle

M. Mobembo Ongutu-Bwibanga
 Chef de Division chargé des droits d'auteur et droits voisins
 M. Boleli Nkoi
 Chef de Bureau, Sous-Région du Nord-Kivu/Goma
 M. M'Bang Mukul Popol
 Chef d'Agence SONECA, Sous-Région du Nord-Kivu/Goma.

Observer

M. Jean-Marie Vinney Mbonyumutwa
 Expert du MULPOC/Gisenyi

Secretariat**World Intellectual Property Organization (WIPO)**

I. Thiam (*Director, External Relations Division*); G. Boytha
 (*Head, Copyright Law Division*).

Permanent Executive Secretariat of the Economic Community of the Great Lakes Countries (CEPGL)

David Mpfubusa (*Executive Secretary*); Tata-Banda Mvilakani
 (*Assistant Executive Secretary*); Makaya ma Nzau (*Assistant
 Head of Division*); Apollinaire Noutinamagara (*Head of
 Section*); Antoine Minani (*Head of Section*); Kalumbi
 Maghaniryo (*Officer*); Romuald Ngarura (*Officer*).

Correspondence

Letter from the Netherlands

D.W.F. VERKADE *

Book Reviews

Urheber- und Verlagsrecht, by *Eugen Ulmer*. Third, revised edition. One volume of 610 pages. Springer-Verlag, Berlin, Heidelberg, New York, 1980.

Since its first publication in 1951, the handbook of Professor Eugen Ulmer has become a standard work of copyright literature, both in the field of legal theory and of legal practice, not only in the Federal Republic of Germany and other German-speaking countries, but increasingly at the international level too. The second edition followed in 1960; the third edition, however, has been delayed by a number of changes and new institutions successively introduced in the field of copyright both in the Federal Republic of Germany and at the international level. A new law on copyright and neighboring rights was promulgated in the Federal Republic in 1965, along with a law on the administration of the rights concerned; through the Rome, Phonograms and Satellites Conventions the international protection of neighboring rights was established; the two major international copyright conventions were fundamentally revised; new problems arose owing to rapid developments in technology, and centered increasingly also on provisions governing authors' contracts. This dynamic development, however, whilst delaying the publication of an all-embracing reference book on copyright and neighboring rights, quite naturally increased at the same time the need for and expectation of a revised new edition of Professor Ulmer's work, dealing with all aspects of the subject in an up-to-date manner. The considerably enlarged and revised third edition is now available, filling a gap in copyright literature.

Professor Ulmer's work offers a global approach to copyright and neighboring rights. The author considers equally legal philosophy and practice, national legislation and international protection of rights, the existing body of relevant provisions and attempts to cope with new problems of development which challenge the law of copyright and neighboring rights.

In a broadbased introduction we find a general analysis of the institution of copyright and its relationship with other contiguous fields of law, such as the domain of so-called neighboring rights, of industrial property rights, labor law, personal rights in general, or protection against unfair competition. The subsequent chapter on the fundamentals of the subject reveals its historic, comparative, international and philosophic aspects. In the latter context special mention should be made of Ulmer's monistic concept of copyright, according to which it is a unitary right of manifold moral and economic content — the source of special powers derived from it in the form of specific but interdependent rights, rather than being merely the sum of a number of self-contained authors' rights. According to the monistic concept the so-called moral rights are not independent rights either, supposedly granted to the author in addition to his economic rights, but rather the necessary offspring of copyright as an integral entity, manifesting an important feature of its very nature.

The following chapters (2 to 7) are devoted to detailed analysis of the categories of protected works, the scope of authors' rights, the limitations on copyright, the term of

protection, the problem of the public domain, and the inheritance and transfer of copyright, with a thorough examination of both the general and special rules on authors' contracts which takes up about one-fifth of the entire book.

Professor Ulmer also considers, in every field which he examines, new problems generated by recent developments. A few examples: as regards works, he advocates the relevance of copyright protection to original computer programs. In the field of special rights deriving from copyright he is of the opinion that cable distribution of broadcast works constitutes a separate restricted act unless it is limited to a single house or a group of neighboring buildings. A separate part is reserved in the new edition for the category of rights entitling the author only to remuneration (without the right of authorization), in the context of *droit de suite* and the public lending right. As regards the limitations imposed upon copyright, complete analysis is made of all aspects of reproduction for private use, with regard to reprographic reproduction as well as "home taping." In connection with the transfer of authors' rights, Ulmer sharply distinguishes between assignment of copyright (which is not compatible with the monistic concept of copyright, recognizing the author's right as inseparably merged with the substance of moral rights) and the granting of rights to use the work in specified ways. Ulmer pays particular attention to provisions protecting the interests of the authors in connection with authorized uses of their works, and, besides traditional forms of authors' contracts, devotes increased space to contracts for broadcasting and for cinematographic adaptation, respectively. He likewise goes into detail on the rights of authors creating works under a contract of employment or commission. The part of the book dealing with collective administration of rights has also been considerably enriched in the new edition.

Chapter 8 deals with neighboring rights, synoptically considering the national and international development, with regard also to the European Agreements in the field of broadcasting.

The last two chapters (9 and 10) offer a particular survey of civil and penal remedies for infringements and contain an analysis of delicate copyright aspects of distraint.

Covering all the subject matter dealt with in his book, Professor Ulmer gives an annotated survey of legal literature, as regards both German and foreign authors. Throughout his book, he gives further references to works relating to each special aspect in question; thus the reader is enabled to pursue the study of the subject. An informative survey of foreign laws depicts how national legislations develop in the field considered. Exact references to pertinent articles of laws and conventions help us to find our way easily through the relevant legal sources. Reference is also made to documents elaborated under the auspices of WIPO and Unesco, whenever appropriate. Plenty of illustrations selected from relevant case law demonstrate how the law is being implemented and actually adapted to changing needs. The interest in the new edition of Professor Ulmer's work will certainly further increase after its publication, even beyond the limits of German-speaking countries.

G. B.

Calendar

WIPO Meetings

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

1981

- May 25 to 29 (Geneva) — Berne Union and Universal Copyright Convention — Group of Independent Experts on the Impact of Cable Television in the Sphere of Copyright** (convened jointly with Unesco)
- June 15 to 26 (Geneva) — Permanent Committee for Patent Information (PCPI) — Working Group on Search Information**
- June 29 to July 1 (Bogotá) — Committee of Experts on Means of Implementation of Model Provisions for National Laws on Intellectual Property Aspects of the Protection of Expressions of Folklore in the Latin-American and Caribbean States** (convened jointly with Unesco)
- June 29 to July 3 (Geneva) — International Patent Cooperation (PCT) Union — Assembly (Extraordinary Session)**
- September 7 to 10 (Geneva) — Permanent Committee for Patent Information (PCPI) — Working Group on Patent Information for Developing Countries**
- September 10 to 18 (Geneva) — Permanent Committee for Patent Information (PCPI) — Working Group on Planning**
- September 24 and 25 (Nairobi) — Treaty on the Protection of the Olympic Symbol — Diplomatic Conference**
- September 28 to October 24 (Nairobi) — Revision of the Paris Convention — Diplomatic Conference**
- October 19 to 23 (Kingston) — Regional Seminar on Copyright for English-speaking Caribbean States** (convened jointly with Unesco)
- November 9 to 13 (Geneva) — Permanent Committee for Patent Information (PCPI) and PCT Committee for Technical Cooperation**
- November 11 to 13 (Geneva) — Rome Convention — Intergovernmental Committee** (convened jointly with ILO and Unesco)
- November 16 to 24 (Geneva) — Governing Bodies (WIPO General Assembly, Conference and Coordination Committee, Assemblies of the Paris, Madrid, Hague, Nice, Lisbon, Locarno, IPC, PCT, Budapest, TRT 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)**
- November 26 to 28 (New Delhi) — Regional Seminar on Copyright for Asian and Pacific States** (convened jointly with Unesco)
- November 30 to December 7 (New Delhi) — Berne Union — Executive Committee — Extraordinary Session** (sitting together, for the discussion of certain items, with the Intergovernmental Committee of the Universal Copyright Convention)
- December 7 to 11 (Geneva) — International Patent Classification (IPC) — Committee of Experts**

UPOV Meetings

1981

- June 2 to 4 (Wädenswil) — Technical Working Party for Vegetables**
- June 23 to 25 (Edinburgh) — Technical Working Party for Agricultural Crops**
- September 22 to 25 (Wageningen) — Technical Working Party for Fruit Crops**
- October 6 to 8 (Antibes) — Technical Working Party for Ornamental Plants**
- October 13 (Geneva) — Consultative Committee**
- October 14 to 16 (Geneva) — Council**
- November 9 to 11 (Geneva) — Technical Committee**
- November 11 to 13 (Geneva) — Administrative and Legal Committee**

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

Non-Governmental Organizations

1981

International Federation of Producers of Phonograms and Videograms (IFPI)

Council — June 2 and 3 (Copenhagen)

Internationale Gesellschaft für Urheberrecht (INTERGU)

Congress — September 21 to 25 (Toronto)

International Federation of Actors (FIA)

Executive Committee — September 23 to 25 (Copenhagen)

1982

International Literary and Artistic Association (ALAI)

Study Session — April 26 to 30 (Amsterdam)