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# Copyright

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World Intellectual Property Organization (WIPO)

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## World Intellectual Property Organization

### SAUDI ARABIA

#### Accession to the WIPO Convention

The Government of the Kingdom of Saudi Arabia deposited, on February 22, 1982, 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 Kingdom of Saudi Arabia, three months after the date of deposit of its instrument of accession, that is, on May 22, 1982.

WIPO Notification No. 118, of February 23, 1982.

## Berne Union

### The Berne Union and International Copyright and Neighboring Rights in 1981

#### Governing Bodies

The *Executive Committee of the Berne Union* held its nineteenth (seventh extraordinary) session in Geneva in November and December 1981. For the consideration of certain items, the Committee held joint discussions with the Intergovernmental Copyright Committee established under the Universal Copyright Convention. Fifteen States members of the Committee were represented, 25 other States members of the Berne Union and eight other States were represented as observers and seven delegations participating in the simultaneous session of the Intergovernmental Copyright Committee also attended the session. Five intergovernmental organizations and 19 international non-governmental organizations were represented by observers.

The Committee took note of developments regarding the Paris Act (1971) of the Berne Convention, and that the number of States which had accepted the said Act was 52 and the number of those that had accepted the administrative reform adopted by the Stockholm Diplomatic Conference in 1967 was 66 out of the 73 member States of the Berne Union. The Committee endorsed a suggestion that, in order to enable a larger number of countries especially from the Third World to join, the Director General might send a letter to all States that are not yet party to the Convention, indicating its basic principles, its scope, its essential objectives, and the main advantages of adhering to it.

The Committee noted with appreciation and considerable satisfaction a report of the International Bureau concerning what the Committee considered to be a wide and impressive range and record of activities of WIPO in the field of legal and technical

assistance to developing countries, including establishing or strengthening the national infrastructure for copyright protection. Particular reference was made to the high quality and usefulness of guides and other WIPO publications brought out in different languages, and assistance rendered in the formulation or revision of legislation.

A number of delegations expressed their appreciation for the WIPO Worldwide Forum on the Piracy of Sound and Audiovisual Recordings convened in Geneva in March 1981, and of the results of its deliberations, and considered that a similar forum should be organized in connection with piracy of books and magazines, of music and of radio and television broadcasts.

Jointly with the Intergovernmental Copyright Committee, the Committee considered the application of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention), and noted the results of the deliberations of the eighth ordinary session of the Intergovernmental Committee established under that Convention, held in Geneva in November 1981 (see below). The Committees indicated that it would be useful to send a circular encouraging accessions to the Rome Convention.

The Committees reviewed also the application of the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (Phonograms Convention) and of the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (Satellites Convention).

The Committees noted the two sets of Model Provisions for the implementation of the Satellites Convention adopted by a committee of governmental experts in 1979, stressing that they should not be considered as obligatory models. The Committees were of the opinion that the first set of Model Provisions, granting a right to broadcasting organizations to authorize the distribution of programme-carrying signals, be considered only by countries in which broadcasting organizations already have a special right in their broadcasts. The Committees requested the Secretariats to send the text of Model Provisions to the States and interested organizations, accompanied by an appropriate explanatory note.

The Committees discussed progress towards the adoption of the Madrid Multilateral Convention for the Avoidance of Double Taxation of Copyright Royalties; the representatives of five States stated that adherence by their Governments to that Convention was under active consideration. It was recalled that the WIPO Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights had suggested that, because of its importance from the point of view of authors as well

as that of the developing countries, the guiding principles and objectives of this 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, and that the publication of a guide to the Madrid Multilateral Convention on the same pattern as the Guides to the Berne Convention and to the Rome and Phonograms Conventions be considered. It was further noted that an international symposium would be organized jointly by Unesco and WIPO in 1983, with a view to promoting the acceptance of the Convention.

The Committees considered the application of the revised Paris texts of 1971 of the Berne Convention and of the Universal Copyright Convention in respect of developing countries, and the deliberations of the Working Group on the Formulation of Guiding Principles Covering the Problems Posed by the Practical Implementation of the Licensing Procedures for Translation and Reproduction under the Copyright Conventions. A number of delegations and observers said that the said Guiding Principles represented a practical and solid basis for implementation of the relevant provisions of the Conventions; they were useful not only to publishers and users in developing countries but also to copyright owners in developed countries. It was pointed out that the guidelines represented essentially a compromise and were meant for orientation purposes and not for interpretation of the Conventions. The Committees felt that a third session of the Working Group was necessary in order to further clarify certain aspects and to finalize the text. The Committees requested that the Secretariats should, upon finalization of the Guiding Principles, circularize them for the information of all States members of the Berne Union and party to the Universal Copyright Convention.

The Committees were presented with the report adopted by the Committee of Governmental Experts on Copyright Problems Arising from the Use of Computers for Access to or the Creation of Works, which met in Paris in December 1980. They noted that a draft text of detailed preliminary recommendations for national lawmakers, prepared by the Secretariats in consultation with the chairman, the two vice-chairmen and the rapporteur of the Committee, would be transmitted to States and international organizations for their comments and submitted for examination by a second Committee of Governmental Experts to meet in Paris in June 1982.

The Committees decided to constitute themselves as subcommittees to discuss, in 1982, a new working paper on the impact of cable diffusion in the sphere of copyright and neighboring rights, meeting jointly with the Subcommittee of the Intergovernmental Committee of the Rome Convention established for that purpose. The mandate of the Subcommittees should extend, *inter alia*, to the consideration of the

desirability and feasibility of arriving at internationally applicable principles and possible model provisions, and to the consideration of both principles and rights, on the one hand, and methods of exercising or administering the rights, on the other, as well as of the relationship between direct satellite broadcasting and cable diffusion. The Secretariats noted information and suggestions received from the Committee for consideration when preparing the working paper to be submitted to the Subcommittees in November 1982.

The Committees discussed copyright problems faced by persons suffering from visual or auditory handicaps, on the basis of reports drawn up by the World Council for the Welfare of the Blind (WCWB) and by the World Federation of the Deaf (WFD), as well as of the comments received. They recommended the setting up of a working group that would consider all the questions raised in the course of the discussion.

The Committees considered the text of model provisions on the protection of folklore drawn up by two Working Groups, in January 1980 and in February 1981, and the recommendations of the January 1980 Working Group concerning a survey of the possibilities for folklore protection at the regional level. It was noted that the matter would be further discussed by a committee of governmental experts in June 1982, and, after a full discussion and exchange of information, the Committees asked their respective Secretariats to study the most suitable means of informing the said committee on the work in progress, and of conveying to it any advice and suggestions that might be provided at various levels, both national and regional, on the subject of folklore protection.

The Committees noted with satisfaction the establishment of the Joint International Unesco-WIPO Service for Access by Developing Countries to Works Protected by Copyright and the Unesco/WIPO Joint Consultative Committee to advise the Directors General of the two Organizations on the preparation and implementation of the activities of the Service.

At the conclusion of a discussion of problems posed by the renting of videograms, the Committees decided to put the question of the right of distribution on the agenda of their next sessions and entrusted to the Secretariats the appropriate studies on the relevant problems.

The full text of the report of the nineteenth session of the Executive Committee of the Berne Union was published in the February 1982 issue of this review.

The *Intergovernmental Committee of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention, 1961)* held its eighth ordinary session in Geneva in November 1981. Eight

member States of the Committee were represented; four States party to the Rome Convention but not members of the Committee and 18 States not party to the Rome Convention were represented as observers. One intergovernmental organization and ten international non-governmental organizations attended the session as observers.

The Committee decided to include the Independent Film Producers International Association (IFPIA) and the Latin American Federation of Performers (LAFF) in the list of organizations to be invited to be represented by observers at the sessions of the Committee.

The Committee expressed its concern that, since its seventh ordinary session held in October 1979, no further States had ratified or acceded to either the Rome Convention or the Phonograms Convention. It felt that, so far as the Rome Convention is concerned, the Secretariat should bring the recommendations of its Subcommittee on the implementation of the Convention again to the notice of such States as are eligible to accede to the Convention. So far as the Phonograms Convention is concerned, the Committee directed the Secretariat to renew a recommendation to States sent in February 1980 together with an explanatory note indicating the background and objectives of the said Convention, drawing attention to the developments during the interim period, particularly to the resolution passed at the WIPO Worldwide Forum on the Piracy of Sound and Audiovisual Recordings held in Geneva in March 1981. The Secretariat should, in particular, draw the attention of States to the fact that commercial piracy stifles efforts undertaken to safeguard and promote national cultures, and that it constitutes a grave prejudice to the economy and to employment in the countries affected by it. The Committee also called for wide dissemination of the discussions and the resolutions adopted by the WIPO Worldwide Forum.

The Committee commended WIPO for publishing a Guide to the Rome Convention and the Phonograms Convention, and felt that this Guide would greatly assist in the better understanding and promotion of the Rome and Phonograms Conventions.

The Committee decided that it should take up once again the problems posed by cable transmission of television programs as they affected the rights of the beneficiaries of the Rome Convention; it decided to meet as a subcommittee, jointly with the Subcommittees of the Intergovernmental Copyright Committees should they so decide.

As to the mandate of the Subcommittee, the Committee decided that this should be as broad as possible, including *inter alia* consideration of the desirability and feasibility of arriving at internationally applicable principles and possible model provisions and consideration of both principles and rights,

on the one hand, and methods of exercising or administering the rights, on the other, and also possibly of the relationship between direct satellite broadcasting and cable diffusion. It was also agreed that issues concerning copyright and neighboring rights should be discussed together. Finally, the Committee agreed that more information on recent national legislation, court cases and contracts and collective agreements, as well as on the experience of collective management systems, was desirable, and took note of the fact that the Secretariat was in the process of consulting the interested international non-governmental organizations in this vein.

The full text of the report of the eighth session of the Intergovernmental Committee was published in the December 1981 issue of this review.

At a meeting of States party to the Rome Convention convened in Geneva in November 1981, the following States were elected members of the Intergovernmental Committee established under the Convention: Austria, Brazil, Congo, Czechoslovakia, Denmark, Germany (Federal Republic of), Italy, Mexico, Niger, Norway, Sweden, United Kingdom.

#### **Promotion of the Acceptance of Copyright and Neighboring Rights Treaties**

##### **Objective**

The objective is to ensure that more countries become party to the treaties dealing with the international protection of copyright and neighboring rights.

##### **Activities**

*Berne Convention for the Protection of Literary and Artistic Works.* In September 1981, Zimbabwe deposited its instrument of accession to the Paris Act (1971) of the Berne Convention (administrative clauses only) and notified to the Government of the Swiss Confederation its succession to the Rome Act (1928) of the Berne Convention, bringing the membership of the Berne Union to 73 States.

*Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite.* Italy deposited in May 1981 its instrument of ratification of the Satellites Convention, bringing the membership to six States.

*Madrid Multilateral Convention for the Avoidance of Double Taxation of Copyright Royalties.* Iraq deposited in July 1981 its instrument of accession to the Madrid Convention. Czechoslovakia deposited in September 1981 its instruments of ratification of the Madrid Convention and of accession to its Additional Protocol. The Convention is not yet in force.

*Vienna Agreement for the Protection of Type Faces and their International Deposit.* The Federal Republic of Germany deposited in November 1981 its instruments of ratification of this Agreement and of accession to its Protocol. The Agreement is not yet in force.

#### **Promotion of the Practical Application of Laws and Treaties in the Fields of Copyright and Neighboring Rights**

##### **Objective**

The objectives include:

- (i) to draw a clear picture, region by region, of the present situation of copyright and neighboring rights law and institutions in the various countries, such survey covering the state of legislation, the involvement of the government in the administration of such legislation, the role of authors' societies and other organized interest groups, statistics on works and their use, etc.,
- (ii) to establish and disseminate a model statute for authors' societies,
- (iii) to study the relationship between copyright and computers,
- (iv) to expose, and study the practical remedies against, various forms of piracy of intellectual property, and
- (v) to study the best means of protecting works of folklore against abusive exploitation.

##### **Activities**

*African Survey.* By the end of 1981, 18 replies were received to the questionnaire, sent to the governments of African countries in August 1980, concerning the practical administration and application of copyright laws.

The elected officers of the *Committee of Governmental Experts on Copyright Problems Arising from the Use of Computers for Access to or the Creation of Works*, which met in December 1980, were consulted, as decided by the Committee, on a draft text of preliminary detailed recommendations intended for national lawmakers; at a meeting in Paris in September 1981 the said draft was finalized for circulation to States and international organizations for their comments.

The *Group of Independent Experts on the Impact of Cable Television in the Sphere of Copyright and Neighboring Rights* (which had first met in March 1980) held its second session, convened by WIPO and Unesco, in May 1981 in Geneva. Seven independent experts, from Austria, Belgium, Germany (Federal Republic of), Italy, the Soviet Union, the

United Kingdom, the United States of America, composed the Group, which, in its plenary sessions, received statements and comments from representatives of ten international non-governmental organizations.

At the end of its first session, the Group of Experts had adopted a statement enunciating a certain number of principles related to this matter and recommended that the Secretariats should prepare draft provisions implementing these principles, which should be accompanied by detailed explanations. It also considered that these principles should be submitted for the consideration of the Intergovernmental Committees of the Berne, Universal and Rome Conventions.

In the framework of the preparation of the relevant documents, the Group of Experts was convened again, for the specific purpose of examining Draft Model Provisions for the Protection of Authors, Performers, Producers of Phonograms and Broadcasting Organizations in Connection with Distribution by Cable submitted by the Secretariats.

After general discussion, the Group of Experts, while putting forward a number of basic suggestions, considered that it was not in a position to adopt a final text and that the drafts should be subjected to further study. It adopted a recommendation to the effect that, in the light of the discussions and the statements of the international non-governmental organizations, the Secretariats should prepare a new working paper, dealing separately with rights in the case of the cable distribution of broadcasts, and with rights in the case of the cable distribution of works, performances, phonograms and broadcasts without any intervening broadcast; the new working paper should merge model provisions and commentary, and the Secretariats should consult the experts individually and/or as a group and may contact international non-governmental organizations for facts and advice; for this purpose a circular to the organizations concerned was sent in September 1981.

The *WIPO Worldwide Forum on the Piracy of Sound and Audiovisual Recordings* was held in Geneva in March 1981. The objective for the Forum was to make public opinion and the competent governmental authorities aware of the extent of commercial piracy — that is, unauthorized copying and sale of recordings for profit — and its harmful effects on the creators, performers and distributors whose rights are pirated as well as on the consumers. Particular emphasis was laid on the enforcement measures existing or desirable in order to combat piracy.

The 200 participants in the Forum were delegates of States, specially invited experts from developing countries, representatives of the interested private circles and international organizations and members of the public. They came from 60 States and from all regions of the world.

The discussions concentrated on three main topics: the nature, extent and effects of commercial piracy, the relevant laws and international treaties, and the enforcement of antipiracy measures from the viewpoints of the producers and of law enforcement authorities.

At the conclusion of the discussions, the participants adopted a resolution expressing their great appreciation of the initiative taken by WIPO in organizing the Forum, affirming unanimous views on the dangers posed by the enormous growth of commercial piracy and on the possible inadequacies of, or inadequate use of, existing legislations, and expressing the wish that specific steps may be taken as necessary, as a matter of urgency, to combat and eliminate commercial piracy.

The resolution suggested that WIPO should continue to intensify its activities in the fight against commercial piracy of sound and audiovisual recordings and films by adopting the following measures among others: to alert governments and public opinion to the need to fight such piracy; to give emphasis in all its technical cooperation activities to education and legal advice in this field; to make available to States and owners of rights information concerning all legislation and jurisprudence on the subject of intellectual property which may be made use of in the fight against such piracy; to coordinate research and take initiatives for the purpose of improving such legislations as well as their more effective application in collaboration with the intergovernmental and international non-governmental organizations concerned; to give priority to undertaking an interdisciplinary study of all relevant international conventions on intellectual property administered by WIPO.

The proceedings of the WIPO Worldwide Forum were published in French and Spanish in October and in English in November 1981.

In February 1981, WIPO and Unesco convened in Paris the second meeting of a *Working Group on the Intellectual Property Aspects of Folklore Protection*. The purpose of the meeting was to consider draft model provisions for national legislation, revised by the Secretariats of the two Organizations in accordance with a recommendation of the Working Group at its first meeting in January 1980, at which a first draft prepared by WIPO had been examined. The revised draft model provisions were accompanied by a draft commentary. The second meeting was attended by experts from 17 countries (Algeria, Argentina, Australia, Bolivia, France, Ghana, Hungary, India, Mexico, Nigeria, Poland, Senegal, Soviet Union, Switzerland, Tunisia, United States of America, Yugoslavia) and by representatives of two intergovernmental and ten international non-governmental organizations as observers.

The Working Group, after a general discussion, examined the draft model provisions section by section and, having made certain amendments and additions, adopted the text of Model Provisions for National Laws on the Protection of Expressions of Folklore. The Working Group considered also the draft commentary, and made observations and suggestions to be reflected in a new version to be prepared by the two Secretariats. It recommended that the adopted text and the new version of the commentary should be presented for further consideration at a meeting of governmental experts in 1982.

The report of the Working Group, together with the adopted model provisions, was published in this review in April 1981.

A *Committee of Experts on Means of Implementation of Model Provisions for National Laws on Intellectual Property Aspects of the Protection of Expressions of Folklore and Traditional Folk Culture in the Latin American and Caribbean Countries* was convened by WIPO and Unesco in Bogotá in October 1981. The Committee was composed of experts, participating in their personal capacity, from the following eight countries: Argentina, Bolivia, Brazil, Colombia, Costa Rica, Cuba, Dominican Republic, Mexico. Two intergovernmental organizations and two international non-governmental organizations were represented by observers.

The Committee of Experts, after a general discussion, examined in detail the provisions adopted by the said Working Group, which met in Paris in February 1981, and suggested changes in the text in order to adapt it to the needs of the Region.

#### **Maintenance of Information Services in the Fields of Copyright and Neighboring Rights**

##### **Objective**

The objectives are: to inform promptly, by means of collections and data bases constantly kept up to date, all those interested in copyright and neighboring rights; to inform, by means of monthly periodicals, governments and interested private circles about the developments in the fields of copyright and neighboring rights both on the national and on the international levels; to facilitate, by means of the Guide to the Berne Convention, the Copyright Glossary, the Guide to the Rome and Phonograms Conventions, the Copyright Law Survey and various brochures, the understanding and the application of copyright laws and laws on neighboring rights.

##### **Activities**

WIPO continued to keep up to date its *collection of the laws, regulations and treaties dealing with copyright and neighboring rights*.

The periodicals *Copyright* and *Le Droit d'auteur* continued to be published each month.

The *WIPO Glossary of Terms of the Law of Copyright and Neighboring Rights* was published in two further three-language editions (Arabic, English, French and English, French, Russian) in February and April 1981, respectively. The Glossary contains 265 terms with their equivalents in the other languages, together with explanations. Both editions were made available to the Permanent Committee at its March session.

The *Guide to the Rome Convention and the Phonograms Convention*, written by a staff member of WIPO, was first published in French in April and in English in August 1981. Arrangements were made for publication in Spanish in 1982.

The text of the *Berne Convention (Paris Act of 1971)* was published in Portuguese in April and in Italian in August 1981.

The *Guide to the Berne Convention* was published in Hindi in August and in German in October 1981.

Supplements to the *Copyright Law Survey*, containing summaries of national copyright laws, were published in English and French in August 1981.

#### **Cooperation With States and Various Institutions in Matters Concerning Copyright and Neighboring Rights**

##### **Objective**

The objective is to ensure that, through regular contacts between the International Bureau, on the one hand, and the governments and other international organizations, on the other hand, there should be full awareness of what is being done and planned on either side, in order to inspire mutually more and more useful activities, to combine forces wherever possible and to avoid all unnecessary duplication.

##### **Activities**

WIPO continued and strengthened its cooperation with Unesco in the fields of copyright and neighboring rights and with the ILO in the field of neighboring rights. Intersecretariat meetings and discussions were held in 1981 on the joint implementation of those items of the program which, in approving the program, the Governing Bodies had decided should be jointly implemented to the extent that Unesco (and the ILO as appropriate) were authorized to do so. Such items include in particular certain seminars, access to protected works, promotion of the acceptance of the Rome, Phonograms and Satellites Conventions, preparations for the entry into force of the Madrid Convention (double taxation), authors' societies, electronic computers, piracy, and the publication "Copyright Laws and Treaties of the World."



WIPO was represented at a meeting of the Legal Subcommittee of the United Nations Committee on the Peaceful Uses of Outer Space in Geneva in March and April 1981.

WIPO was represented at a meeting of the Committee of Experts on Legal Protection in the Media Field of the Council of Europe, in Strasbourg in September and October 1981. The Committee discussed legal questions relating to cable television, satellite television, private sound and audiovisual reproduction and reprography, and proposed, to the Steering Committee on the Mass Media, that the continuation of its work be entrusted to a new Committee called "Committee of Legal Experts in the Media Field."

WIPO was also represented at the Parliamentary Assembly of the Council of Europe in October 1981.

In March 1981, the Director General of the African Intellectual Property Organization (OAPI) visited the International Bureau in order to discuss questions of cooperation as regards several future activities of OAPI in the fields of copyright and neighboring rights.

In April 1981, a Deputy Executive Secretary of the Economic Community of the countries of the "Grands Lacs" (CEPGL) visited the International Bureau to discuss several aspects of cooperation.

WIPO was represented at the following meetings of international non-governmental organizations having an interest in copyright and related matters: the Executive Committee of the International Federation of Musicians (FIM) in Zurich in January 1981; the Executive Committee of the International Literary and Artistic Association (ALAI) in Paris in January 1981; a meeting of the Legal and Legislation Committee of the International Confederation of Societies of Authors and Composers (CISAC) in Sydney in April 1981.

In December 1981, a meeting of international non-governmental organizations concerned with questions of copyright and neighboring rights was convened by the Director General in Geneva; current activities were reviewed, and suggestions were invited and offered for the future programs and medium-term plans of WIPO.

## **Conventions Administered by WIPO**

### **Multilateral Convention for the Avoidance of Double Taxation of Copyright Royalties**

EGYPT

#### **Accession to the Convention**

The Secretary-General of the United Nations notified the Director General of the World Intellectual Property Organization that the Government of Egypt deposited, on February 11, 1982, its instrument of accession to the Multilateral Convention for

the Avoidance of Double Taxation of Copyright Royalties, adopted at Madrid on December 13, 1979.

A separate notification will be made on the entry into force of the Convention when the required number of ratifications or accessions is reached.

### **Nairobi Treaty on the Protection of the Olympic Symbol**

ETHIOPIA

#### **Accession to the Treaty**

The Director General of the World Intellectual Property Organization (WIPO) has notified the Governments of the States which, according to Article 5, may become party to the Nairobi Treaty on the Protection of the Olympic Symbol that the Government of Socialist Ethiopia deposited, on February 17, 1982, its instrument of accession to the said Treaty.

The date of entry into force of the Nairobi Treaty will be notified when the required number of ratifications, acceptances, approvals or accessions is reached in accordance with Article 6(1) of the said Treaty.

Nairobi Notification No. 4, of February 19, 1982.

# National Legislation

## PORTUGAL

### Decree-Law No. 393/80

(of September 25, 1980) \*

*Article 1.* (1) The Secretariat of State for Culture shall be empowered to defend the integrity and genuine character of national intellectual works that have fallen into the public domain.

(2) The power of the Secretariat of State for Culture with respect to defending the integrity and genuine character of national intellectual works that have fallen into the public domain shall be exercised through the General Directorate of Public Performances and Copyright, without prejudice to the relevant jurisdiction vested in the Portuguese Book Institute pursuant to Regulation No. 17/80 of May 23, 1980.

(3) The Secretariat of State for Culture may also, through the same General Directorate, ensure the integrity and genuine character of works which have not as yet fallen into the public domain if they appear to be threatened or have been violated and if the owners of the respective rights, having been called on to exercise them, do not do so without valid reason.

*Article 2.* (1) The publication or use, by any means or in any medium, of national intellectual works which have fallen into the public domain, by any person or legal entity, shall require no prior authorization but may be effected only provided that:

- (a) the name of the author, if known, be mentioned;
- (b) the integrity and genuine character of the work be respected;
- (c) where the publication or use of the work is undertaken for profit-making purposes, the relevant fee as shown in the appended table be paid.

(2) In cases where the work has been translated, adapted, transposed, arranged, abridged, summarized or modified in any other way, this fact shall be clearly stated.

(3) This provision shall also apply to sound or video recordings of Portuguese folklore.

*Article 3.* (1) The fees referred to in Article 2(1)(c) above and receipts from the fines provided for in Article 5(2) and (3) below shall constitute the income of the Culture Promotion Fund, which shall be used exclusively for the protection and dissemination of intellectual works which have fallen into the public domain, in accordance with the nature of the means or medium appropriate to each work.

(2) The fees shall be paid into an account in the name of the Culture Promotion Fund with the General Deposit Bank.

(3) To pay the relevant fees the user of the intellectual work shall fill out the form, a model of which is appended hereto,<sup>1</sup> on which he shall mention the details provided for in Article 2(1)(a), (b) and (c) above.

(4) Any deviation from the fees shown in the table appended to this Decree-Law shall require an order from the Government official responsible for cultural matters.

*Article 4.* Wheresoever a doubt may exist as to respect for the integrity and genuine character of an intellectual work, the opinion of the General Directorate of Public Performances and Copyright and the Portuguese Book Institute may be sought.

*Article 5.* (1) Non-compliance with the provisions of this Decree-Law shall be punished as detailed below, and fines, where applicable, shall be adapted to take account of the nature, gravity and circumstances of the infringement, the previous record of the offender and his financial situation.

(2) Non-compliance with Article 2(1)(a) and (b) shall carry a fine of 20,000 to 150,000 escudos.

\* Published in the *Diário da República*, 1 Série, No. 222, of September 25, 1980.

<sup>1</sup> This model is not reproduced here.

(3) Non-payment of the fees referred to in Article 2(1)(c) shall be punished with a fine of five times the fee due, but in no case less than 1,000 escudos.

(4) The General Directorate of Public Performances and Copyright shall be responsible for instituting legal proceedings in cases of infringements as referred to above, and the amount of the fine to be imposed shall be determined by the Director General of Public Performances and Copyright.

*Article 6.* Decree-Laws Nos. 53/80 and 54/80 of March 26, 1980, are hereby repealed.

*Article 7.* This Decree-Law shall come into force 30 days after its publication.

*Table of fees referred to in Article 2(1)(c)*

Dance or theater performances with paying public:
Per performance — 1.5% of gross box office takings
Literary, musical and literary-musical works, including plays:
Performances with paying public — 50 escudos
Stage or similar music — 0.1% of the royalties due for the play
Royalties for mechanical reproduction of sound or video recordings for public sale:
1.6% of the retail sale price of the sound or video recordings, less sales tax
Royalties for printed editions:
1% per copy published.

## General Studies

### Disquieting Report from the Maginot Line of Authors

#### Technological Progress and Crisis Tendencies in Copyright

Mihály FICSOR \*

























## **Copyright Law and the Free Movement of Goods in the Common Market**

**New Case Law of the Court of Justice of the European Communities**

Gerhard REISCHL \*











## **Conventions Not Administered by WIPO**

### **African Intellectual Property Organization (OAPI)**

#### **Bangui Agreement**

#### **Relating to the Creation of an African Intellectual Property Organization**

##### *Entry into Force*

The Bangui Agreement of March 2, 1977, Relating to the Creation of an African Intellectual Property Organization, Constituting a Revision of

<sup>1</sup> For the text of the Bangui Agreement, see *Copyright*, 1979, p. 137.

the Agreement Relating to the Creation of an African and Malagasy Office of Industrial Property,<sup>1</sup> entered into force on February 8, 1982, the following States having deposited their instruments of ratification: Cameroon, Central African Republic, Gabon, Ivory Coast, Mauritania, Niger, Senegal, Togo.

## Book Reviews

**Urheberrecht und Entwicklungsländer**, by *Adolf Dietz*. One volume of 80 pages. C.H. Beck'sche Verlagsbuchhandlung, Munich, 1981.

This new study, whose author is well known to the readers of our reviews, deals with an aspect of copyright which is of the greatest current interest, that of the part which this branch of law is capable of playing in the developing countries. The point of departure of this analysis is constituted by various elements contained in documents prepared under the program to achieve a new international economic order (improvement of the terms of trade, preferential treatment without reciprocity in respect of developing countries, improved access to the results of science and technology, intensification of cooperation between the developing countries, etc.).

The examination of the relationships existing between development, culture and copyright, together with that of the concept of developing country, deserves a special mention. The same applies to the part devoted to the background and content of the special provisions in favor of developing countries contained in the Berne Convention and the Universal Copyright Convention.

The author also examines, in the light of the developing countries' interests, a number of general provisions in those two Conventions concerning, in particular, the general principle of national treatment, works of applied art, works of folklore, term of protection and *domaine public payant*. In this context, he stresses the importance of setting up international legal arrangements in respect of authors' contracts, and the part played in this respect by the collecting societies.

In his conclusion on the contribution made by the developing countries to the establishment of an international legal order in this field, the author mentions that some 60 of them are already party to one or other of the two worldwide Conventions.

As regards national legislation, the author justifiably considers that those of the developing countries that are currently preparing a modern copyright law are capable — with the support of international experts — of playing a pioneer role.

M.S.

**La protection juridique des caractères typographiques:**

*Etude de l'Arrangement de Vienne concernant la protection des caractères typographiques et leur dépôt international*, by *Kaloyan Stoyanov*. One volume of 241 pages. Librairie Droz, Geneva, 1981.

As the author points out in this work, type faces are more than just industrial products; they also constitute artistic creations. Their purpose is to give extrinsic form to the intrinsic value of a text, i.e., to capture and illustrate written thought. It is thus clear that type faces have a dual character and that this duality has important legal implications. While a new manufacturing process for type faces may be protected under patent law, a new type face itself should be considered independently of its manufacturing process and protected as a creation of form.

The author divides his well researched and in-depth study on the legal protection of type faces into two parts. In the first he discusses various solutions to the problem of protection as provided for in the Benelux, France, Germany (Federal Republic of), Italy, Switzerland, the United Kingdom and the United States of America. Determining that these national solutions are insufficient, the author devotes the second part of his work to an extensive analysis of the Vienna Agreement for the Protection of Type Faces and their International Deposit. This Agreement, which was signed in 1973 by 11 States and since then ratified by two (France and the Federal Republic of Germany), will enter into force following ratification or accession by three additional States.

To conclude, the author evaluates the Vienna Agreement. While criticizing it for not being sufficiently innovative and yet imposing too many legislative modifications on Contracting States, he finds that it is a surprisingly efficient and flexible instrument which juxtaposes the essential characteristics of intellectual property in such a manner that each Contracting State is free to select that which best suits its own national legal order.

In view of the renewed interest in recent years in the creation of new type faces, accompanied by inevitable infringement problems, this work is well worth studying particularly with regard to the light it sheds on the Vienna Agreement.

JAE

# Calendar

## WIPO Meetings

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

### 1982

- April 1 and 2 (Geneva) — International Patent Cooperation (PCT) Union — Meeting with Non-Governmental Organizations (with the participation of National Patent Offices of PCT Contracting States)**
- April 19 to 23 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Planning**
- April 19 to 23 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Special Questions**
- April 26 to 30 (Geneva) — Berne Union — Working Group on the “domaine public payant” (convened jointly with Unesco)**
- May 3 to 7 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on General Information**
- May 10 to 14 (Vienna) — International Patent Classification (IPC) — Advanced Seminar**
- May 24 to 28 (Geneva) — Nice Union — Committee of Experts**
- June 7 to 11 (Paris) — Berne Union — Committee of Governmental Experts on Problems Arising from the Use of Computers for Access to or the Creation of Works (convened jointly with Unesco)**
- June 7 to 18 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Search Information**
- June 14 to 18 (Geneva) — Development Cooperation — Working Group on the Establishment of a Guide on the Organization of Industrial Property Activities of Enterprises in Developing Countries**
- June 28 to July 2 (Geneva) — Committee of Governmental Experts on Model Provisions for the Protection of Expressions of Folklore (convened jointly with Unesco)**
- September 1 to 3 (Geneva) — Working Group on the Rights of Employed or Salaried Authors (convened jointly with ILO and Unesco)**
- September 6 to 10 (Geneva) — International Patent Cooperation (PCT) Union — Committee for Administrative and Legal Matters**
- September 10 (Geneva) — International Patent Cooperation (PCT) Union — Assembly (Extraordinary Session)**
- September 20 to 23 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Patent Information for Developing Countries**
- September 23 to October 1 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Planning**
- September 23 to October 1 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Special Questions**
- September 27 to 30 (Geneva) — Permanent Committee for Development Cooperation Related to Industrial Property**
- October 4 to 30 (Geneva) — Revision of the Paris Convention — Diplomatic Conference**
- October 25 to 27 (Paris) — Berne Union — Working Group on Copyright Questions Connected with the Use of Works by Persons with Defective Hearing or Sight (convened jointly with Unesco)**
- November 8 to 12 (Geneva) — Working Group on Model Contracts for Licensing or Transferring Copyright (convened jointly with Unesco)**
- November 22 to 26 (Geneva) — Governing Bodies (WIPO Coordination Committee; Executive Committees of the Paris and Berne Unions)**
- November 29 to December 3 (Geneva) — Permanent Committee on Patent Information (PCPI) and PCT Committee for Technical Cooperation (PCT/CTC)**
- December 6 to 10 (Geneva) — International Patent Classification (IPC) — Committee of Experts**
- December 6 to 10 (Paris) — Berne Union and Universal Copyright Convention — Working Group on the Formulation of Guiding Principles Covering the Problems Posed by the Practical Implementation of the Licensing Procedures for Translation and Reproduction under the Copyright Conventions (convened jointly with Unesco)**
- December 13 to 17 (Paris) — Berne Union, Universal Convention and Rome Convention — Subcommittees of the Executive Committee of the Berne Union, of the Intergovernmental Copyright Committee and of the Intergovernmental Committee of the Rome Convention, respectively, on Copyright and Neighboring Rights Problems in the Field of Cable Television (convened jointly with ILO and Unesco)**

## **UPOV Meetings**

### **1982**

April 26 and 27 (Geneva) — Administrative and Legal Committee  
April 28 and 29 (Geneva) — Consultative Committee  
May 11 to 13 (Salerno) — Technical Working Party for Vegetables  
May 18 (Madrid) — Technical Working Party for Agricultural Crops — Subgroup  
May 19 to 21 (Madrid) — Technical Working Party for Agricultural Crops  
September 28 (Faversham) — Technical Working Party for Fruit Crops — Subgroup  
September 29 to October 1 (Faversham) — Technical Working Party for Fruit Crops  
October 5 to 7 (Cambridge) — Technical Working Party for Ornamental Plants and Forest Trees  
October 12 (Geneva) — Consultative Committee  
October 13 to 15 (Geneva) — Council  
November 15 and 16 (Geneva) — Administrative and Legal Committee  
November 17 (Geneva) — Information Meeting with International Non-Governmental Organizations  
November 18 and 19 (Geneva) — Technical Committee

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

### **1982**

#### **Intergovernmental Organizations**

##### **Council of Europe**

Committee of Legal Experts in the Media Field — October 12 to 15 (Strasbourg)

#### **Non-Governmental Organizations**

##### **International Literary and Artistic Association (ALAI)**

Study Session — May 16 to 20 (Amsterdam)

##### **International Confederation of Societies of Authors and Composers (CISAC)**

Legal and Legislation Committee — May 10 to 12 (Vienna)

Congress — October 3 to 8 (Rome)

##### **International Federation of Actors (FIA)**

Congress — September 27 to October 1 (Paris)

##### **International Federation of Musicians (FIM)**

Seminar on the administration of performers' rights — May 3 and 4 (Geneva)

Executive Committee — May 5 to 7 (Geneva)