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World Intellectual Property Organization

MALI

Accession to the WIPO Convention

The Government of the Republic of Mali deposited, on May 14, 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 Republic of Mali, three months after the date of deposit of its instrument of accession, that is, on August 14, 1982.

WIPO Notification No. 119, of May 17, 1982.

Berne Union

Committee of Non-Governmental Experts on the "Domaine Public Payant"

(Geneva, April 26 to 29, 1982)

Report

prepared by the Secretariats and adopted by the Committee

Introduction

1. In accordance with Resolution 5/01 adopted by the General Conference of Unesco at its twenty-first session (Belgrade, September-October 1980) and in pursuance of the decisions of the respective Governing Bodies of Unesco and WIPO, the Directors General of those two Organizations jointly convened a Committee of Non-Governmental Experts on the "Domaine Public Payant" (hereinafter referred to as "the Committee") to prepare guidelines on the question of domaine public payant. The Committee met at WIPO Headquarters, Geneva, from April 26 to 29, 1982.

2. Of the six non-governmental experts who were invited in their personal capacity, five experts attend-

ed the meeting of the Committee (Mr. D. N. Malhotra, Director, Hind Pocket Books, India, sent a cable regretting his inability to attend). Besides, representatives of ten international non-governmental organizations attended the meeting as observers. The list of participants appears as annex to this report.

3. The working paper available to the Committee was document UNESCO/WIPO/DPP/CE/I/2 entitled "Analysis of the Replies to the Survey of Existing Provisions for the Application of the System of 'Domaine Public Payant' in National Legislation" prepared by the two Secretariats on the basis of the replies from the States to a questionnaire which the Director-General of Unesco had addressed to the member States under cover of circular letter CL/2735 on September 23, 1980. This questionnaire

asked for information on the structures already set up for the purposes of giving effect to the system of *domaine public payant*, in pursuance of Resolution 5/9.2/1 adopted by the General Conference of Unesco at its twentieth session (Paris, October-November 1978).

Opening of the Meeting

4. The meeting was opened by Mr. Claude Masouyé, Director, Public Information and Copyright Department, who, on behalf of the Director General of WIPO, welcomed the experts and the observers. Mr. Abderrahmane Amri, in the name of the Director-General of Unesco, joined in welcoming the participants and also thanked WIPO for hosting the Committee.

Election of Chairman

5. As proposed by Mr. Fodé Moussa Camara, and seconded by Mr. Propicio M. Alves, Mr. Salah Abada, Director General of the National Copyright Office (ONDA), Algiers, was unanimously elected as Chairman of the Committee.

Presentation of the Preparatory Documentation

6. The Secretariat presented the working document mentioned in paragraph 3 giving a brief résumé of the background of the question under deliberation and the salient features of the findings of the survey as detailed in that document.

General Discussion

7. The participants wished to begin their debates by emphasizing the complexity of the matter under study. They noted that a number of States had not replied to the questionnaire sent to them, particularly those whose domestic laws comprised arrangements for *domaine public payant*, and had thereby deprived the Committee of useful information.

8. Some participants congratulated the two host Organizations for having devoted their efforts to this matter and expressed the opinion that the efforts to draw up guidelines for the operation of a system of *domaine public payant* deserved encouragement.

9. Differences of opinion emerged as regards the legal nature of such a system, since some considered it to be an extension of the copyright arrangements whereas others felt it to be of a marginal nature when compared with copyright and to have a fiscal or socio-fiscal character. Some of the participants noted that the main aim to be pursued in setting up such a system was for living authors to be able to enjoy the fees collected when works of deceased authors were used. If authors' collective bodies were to fully

enjoy this system and intellectual creation were to be furthered, they felt that it should be closely linked from a legal point of view with the concept of copyright.

10. A number of experts also emphasized the importance that such a system, based on the principle of national solidarity as regards the promotion of cultural activities, could have for the developing countries as an additional contribution to such promotion.

11. The observers from a number of international non-governmental organizations expressed their anxiety at the consequences of convening the Committee.

12. The observer from the International Publishers Association (IPA) noted that the study of *domaine public payant* had been undertaken without prior examination of the economic implications of the dissemination of the various mediums that would be subject to the new fee. Unesco's questionnaire gave no figures on achievements attributable to *domaine public payant*. It was therefore impossible under the circumstances to validly assess an institution whose very principle was hotly debated. IPA was therefore opposed to *domaine public payant* for the reason that, far from being beneficial to the promotion of arts and culture, the institution of such a system would indeed tend to discourage the use of protected works and would increase unemployment among creators. Its sponsors nevertheless pursued without dismay their project for a recommendation to encourage a maximum number of States to adopt the *domaine public payant*. From an economic point of view, the users' budgets could not be stretched indefinitely and they would therefore have to pass on this additional charge to the authors and to the general public. This would lead to an overall lowering of copyright revenue and a restriction on the dissemination of culture. The contractual balance struck between authors and users was to be called into question to the detriment of the creators, and the general public was to be subjected to an increase in the price of the mediums for works. From a legal point of view, the substitution of *domaine public payant* for copyright (extending it, in a way) would result in *domaine public payant*, which had its own needs, constituting a tangible obstacle to the desirable improvement in the level of copyright protection (for example, the increase in the current term of protection). Since the aim of *domaine public payant* was in the general interest (contrary to copyright, which satisfied the authors' private interests and therefore fell within private law), it is obvious that *domaine public payant* would represent an institution of a distinctly fiscal or related nature and therefore subject to the constraints of public law. As regards the developing countries, IPA considered that

domaine public payant would be particularly harmful in that it would weaken their undertakings producing the mediums for culture and the imposition of domaine public payant would make them less competitive. Those countries would thus become more dependent on foreign production.

13. The observer from the European Broadcasting Union (EBU) stated that, for reasons which unfortunately, in view of the Committee's specific mandate, could not be meaningfully discussed, EBU was firmly opposed to the notion of a domaine public payant. He therefore supported the general content of the statement made by the observer from IPA. He shared in particular the dissatisfaction over the narrow mandate and predetermined procedure, which left no room for discussion of the question of principle underlying the whole matter, viz. whether or not it was desirable to adopt a domaine public payant system at all, whether such a system should be proposed for all countries or only for certain categories or regional groups of countries, and what would be the best ways to assist countries in introducing such a system (e.g. guidelines, model laws, recommendations, individual consultancy).

14. The observer from the International Federation of Associations of Film Distributors (FIAD), speaking also on behalf of the International Federation of Film Producers Associations (FIAPF), added his voice to those of IPA and EBU, while at the same time drawing attention to the fact that there was a risk of going beyond the area of copyright since, in his opinion, such a system was located in the area of taxation. He likewise emphasized the inherent difficulty of any application of domaine public payant arrangements to cinematographic works.

15. In the course of several interventions, the observers from the International Federation of Producers of Phonograms and Videograms (IFPI) made it clear that producers of phonograms and of videograms do not favor the system of domaine public payant. They saw that as essentially a social security or fiscal matter rather than one of copyright, and regretted that consideration of the domaine public payant question had been accorded priority over more urgent problems such as private copying and piracy. While IFPI's position was influenced by the fact that its members were users of copyright works, this was not a dominant consideration. The vast majority of sound recordings produced were of popular music which was protected, and that music was very unlikely to be recorded after it had fallen into the public domain. Up to 95% of classical recordings were of works in the public domain and, if imposed, domaine public payant would add to production costs in an already unprofitable sector, leading to increased prices. Some producers would

no longer record serious music, and the steady decline in the share of serious music in the recorded repertoire (13 % in 1960, 9 % in 1970, 6 % in 1980 falling to an anticipated 5 %) would be accelerated. Thus domaine public payant would have considerable negative results in cultural terms. IFPI noted that some governments might nevertheless legislate in favor of domaine public payant, and in such case would urge that the system should be applicable for a fixed term of years and that use of public domain works should not be subject to authorization. IFPI would also urge that domaine public payant should apply only to those works falling into the public domain after the legislation in question came into effect. In any event, it was important that authorities should be vigilant and active in the prevention of infringements of protected works as well as works subject to the domaine public payant.

16. The observer from the International PEN Federation, speaking also on behalf of the International Association of Art and the French Société des Gens de Lettres, wished to express his gratitude to Unesco and WIPO for the initiative taken by their Governing Bodies in studying this question. He first emphasized that the existence of art and literature had depended in the past on the patronage of institutions such as the churches, the royalty or the wealthy, whose power and possibilities no longer existed or were today considerably diminished. It was therefore desirable that a system of domaine public payant be set up to contribute to the independence and autonomy of art and literature. The temporal limitation of literary and artistic property constituted an exception within the system of property for which the sole justification was cultural and public, and it was indeed this very public service that today demanded the institution of domaine public payant at international level. This would be a means to save both living literature and publishing in the form of a levy that would be a minimal one for the publishers and which would guarantee their future where the resultant revenue covered the risks taken by publishers as part of their activities. He concluded by expressing his conviction that literature and art would be saved by the domaine public payant if this was set up, put into general application and well administered.

17. Some of the participants wondered whether the institution of domaine public payant was not incompatible with the spirit of the international copyright conventions. Others questioned whether the introduction of such a system within a State party solely to the Universal Copyright Convention, which ensured a minimum level of protection of 25 years *post mortem auctoris*, would not tend to discourage such State from extending that term of protection in order to accede to the Berne Convention. Following a broad exchange of views, it was noted that the intro-

duction of those arrangements into domestic law would in no way prevent States from fulfilling their obligations under those conventions.

18. It was also remarked that the introduction of such arrangements would in no way constitute an obstacle to the dissemination of works of the mind, particularly since the rates of fees to be collected under *domaine public payant* would in any event be lower than those collected under copyright. Some participants nevertheless had reservations in that respect.

19. It was agreed that the guidelines to be set up would in no way be of a binding nature and that they would in no way constitute an international obligation on the States, but that the latter would have the possibility of applying them wherever they felt it appropriate to use them as a basis.

20. At this juncture in the discussions, the Committee considered that a list of topics could be defined with a view to preparing draft model guidelines. It was remarked that the list could be based on the replies to the survey made of States having national statutory provisions that provided for a *domaine public payant*. In this context, nine topics were chosen. They are given below in the order in which they were discussed.

Application to All Categories of Works or to Some Only

21. It emerged from the study of the replies given by the States to the above-mentioned survey that the relevant legislation applied to all categories of works of the mind in seven States, whereas in five further States it applied solely to certain categories of such works.

22. Following discussions on this topic, it was decided that no discrimination should be made and that it was desirable to include in the *domaine public payant* all categories of works of the mind normally protected by national copyright laws and by the international conventions.

Application to All Types of Use or to Some Only

23. Study of the replies given by the States to the above-mentioned survey showed that national laws applied to all types of uses in five States, whereas in seven other States they applied solely to certain types of use.

24. It was nevertheless felt that application of this system should normally extend to all types of use since it would be difficult to restrict it to certain uses only. In this context, mention was made of the profit-making purpose of the use as a criterion that applied in some countries. Although this profit-making purpose, as defined by national legislation, could be

considered a deciding factor in some cases, it was not chosen as a compulsory criterion.

25. The Committee also accepted that the system should not apply to uses that did not constitute an infringement under national copyright law.

Should the Use of Works be Subject to Prior Authorization or Not?

26. It was to be noted that, among those countries that had given replies to the above-mentioned survey, the statutory provisions in force in four States required prior authorization to be obtained for the use of works belonging to the public domain, whereas in six States the user was quite at liberty to use a work, subject only to paying the required fee. One State had made the use of works in the public domain subject, after payment of the required fee, to prior declaration.

27. Some of the participants emphasized that the requirement of authorization would prejudice the aim pursued in instituting a *domaine public payant* since it afforded to the State or to the body responsible for giving such authorization discretionary powers and would limit public access to unprotected works.

28. Following a lengthy exchange of views, the Committee unanimously considered that the use of works in the *domaine public payant* should not be subjected in any way to the need for prior authorization. It supported the principle of any use of works that had fallen into the public domain remaining free, subject to the user declaring the works he intended to exploit and paying the required fees.

Temporal Application (Duration)

29. The duration of the applicability of *domaine public payant* arrangements was also the subject of a broad discussion. Two solutions were envisaged: one comprising a perpetual term, and the other a term limited to a certain number of years from the time at which the work concerned no longer enjoyed protection under copyright. The advantage of the first solution would be to generate larger financial resources and thus enable a lower rate of fees to be charged. Under the second solution, the works would become entirely free for use on expiry of a given period. That second hypothesis was only of interest if the period during which the system was applied was long enough to cover a sizable portion of the works and thus to guarantee that *domaine public payant* fulfilled its purpose by regularly producing appropriate resources devoted to furthering creativity and creators.

30. At that juncture in the discussion, the question of the right to respect or integrity of works belonging to the public domain was raised. The representative

of Unesco informed the Committee that the matter was currently being specifically studied by his Organization and that an intergovernmental meeting was to be convened for the purpose in 1983.

31. A lengthy discussion was held on the question of whether, when established, the system of *domaine public payant* was to be applied with immediate effect for all works no longer enjoying copyright protection or whether it would be limited solely to works that fell into the public domain as from promulgation of the legislation governing that system. The Committee felt that all works within *domaine public payant* (which could vary depending on whether its term was perpetual or limited) should be subject to the arrangements. Nevertheless, to avoid giving a retroactive nature to such measure and thus affecting acquired rights, it was suggested that its entry into force be deferred for two or three years. However, such a period should not apply to copies of works already in the public domain that had been manufactured prior to institution of a *domaine public payant* and which were still on the market.

Geographical Application (Foreign Works)

32. It emerged from the study of the replies given by the States to the above-mentioned survey that the relevant legislation applied to national works in four States and to both national and foreign works in eight other States.

33. Following a lengthy discussion, the Committee agreed that the extension of the system to the entire international repertoire would be such as to prevent users of works of the mind in a given country from neglecting the national repertoire for the use of which a fee would be collected. That solution would help to provide additional resources and would enable the body responsible for administering the sums thus collected to play a more important part in the aid given to domestic authors.

Method for Calculating Fees

34. The methods for calculating fees were also covered by the above-mentioned questionnaire. Of the twelve States in which *domaine public payant* existed, ten specified the amount that was to be paid for the use of a work belonging to *domaine public payant*. The method of calculation varied from country to country, depending on the category of work and the differing types of use of one and the same work.

35. According to some of the participants, it was desirable to refer to accepted practice in the calculation of fees due in respect of works protected by copyright, it being nevertheless understood that the rates would be lower than those applicable for the

use of such works. In that context, one participant observed that the rate of fees applicable under copyright was not subject to any specific rules in some cases.

36. Certain other participants proposed that a ceiling be fixed for this rate that should not under any circumstances exceed 50 % of the amount charged for the use of protected works.

37. As regards the basis for calculating such fees, two complementary methods were suggested: one comprised a proportional levy on revenue from the sale of copies or from the public exploitation of the work, and the other consisted of a lump-sum payment where works that had fallen into the public domain did not constitute the principal source of exploitation as far as the users were concerned.

Competent Authorities

38. As regards the authorities competent to collect the fees paid under *domaine public payant*, the above-mentioned survey showed that in the majority of cases that authority was a national body responsible for administering authors' interests.

39. Wishing to see that sums thus collected serve to stimulate the creativity of authors and composers and to ensure in this way the ultimate use made of such monies, the Committee felt that it was natural to entrust that task to the bodies that administered the authors' interests (societies of authors, copyright offices, professional associations of authors).

Beneficiaries

40. The Committee noted that, according to the replies to the survey, the sums collected under *domaine public payant* were intended to finance authors' welfare funds and to promote cultural and artistic activities by awarding grants and organizing systems of aid to authors. It concluded that encouragement of intellectual creation could take on a number of forms, either directly or indirectly. The main point appeared to the Committee that those receiving the sums collected should be the creators themselves and that the distribution of such sums should be made under the control of bodies looking after their interests.

Remedies

41. The replies to the above-mentioned questionnaire showed that, among the States having a *domaine public payant*, nine had introduced measures to enable them to implement the provisions governing this system and that those provisions were generally identical with the provisions on the protection of copyright works and comprised either civil penalties or criminal penalties or both.

42. The question was then raised of who would be considered the victim of an infringement to the provisions governing domaine public payant, in other words, who could benefit under any redress granted by the courts for failure to comply with the relevant legislation. It was felt that this should be the authority responsible for collecting the amounts due under domaine public payant. However, that did not exclude manufacturers and producers of mediums for works of the mind in the public domain from joining in a legal action against infringers under unfair competition law.

43. As regards the measures envisaged, the Committee deemed it desirable to provide for civil penalties. However, where there was repeated infringement or where it was an habitual infringement committed by the infringer, criminal penalties should be provided for by domestic laws.

Adoption of the Report

44. This report was adopted unanimously.

Closing of the Meeting

45. Following the customary expression of thanks, the Chairman closed the meeting.

List of Participants

I. Members of the Committee

M. Salah Abada
Directeur général, Office national du droit d'auteur, Alger

M. Propicio M. Alves
Editeur, Vice-président, Union internationale des éditeurs,
Rio de Janeiro

M. Fodé Moussa Camara
Directeur général, Bureau guinéen du droit d'auteur et des
droits voisins, Conakry

Mrs. Karin Götz
Vice-Director, Copyright Information Center, Berlin

Mr. Barry D. Torno
Lawyer, Cassels, Brock Barristers and Solicitors, Toronto

II. Observers

International Non-Governmental Organizations

European Broadcasting Union (EBU): W. Rumphorst; E. Santoro. **International Association for the Advancement of Teaching and Research in Intellectual Property (ATRIP):** A. Dietz; F. Gotzen. **International Confederation of Free Trade Unions (ICFTU):** L. Casado. **International Confederation of Societies of Authors and Composers (CISAC):** M. Pickering. **International Copyright Society (INTERGU):** G. Halla. **International Federation of Associations of Film Distributors (FIAD):** G.J.C. Grégoire. **International Federation of Producers of Phonograms and Videograms (IFPI):** I.D. Thomas; M. Kühn; S.M. Stewart; E. Thompson; F.-P. Wellebrouck. **International Literary and Artistic Association (ALAI):** A. Françon; W. Duchemin. **International Publishers Association (IPA):** J.-A. Koutchoumow; R. Cucchiaro; A. Leduc; A. Plazas; H.-J. Radecke; A. Schmidt; O. Spitzmuller. **PEN International:** A. Blokh.

III. Secretariat

United Nations Educational, Scientific and Cultural Organization (UNESCO)

A. Amri (*Copyright Division*); A.M.N. Alam (*Legal Officer, Copyright Division*).

World Intellectual Property Organization (WIPO)

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

AUSTRIA

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

The Government of the Republic of Austria deposited, on May 19, 1982, its instrument of ratification of the Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886, as revised at Paris on July 24, 1971.

The Paris Act of the Convention will enter into force, with respect to the Republic of Austria, three months after the date of this notification, that is, on August 21, 1982.

Berne Notification No. 103, of May 21, 1982.

Conventions Administered by WIPO

Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms

AUSTRIA

Ratification of the Convention

The Director General of the World Intellectual Property Organization (WIPO) has informed the Governments of the States invited to the Diplomatic Conference on the Protection of Phonograms * that, according to the notification received from the Secretary-General of the United Nations, the Government of the Republic of Austria deposited, on May 6, 1982, its instrument of ratification of the Convention for the Protection of Producers of Phonograms

Against Unauthorized Duplication of Their Phonograms.

The Convention will enter into force, with respect to Austria, three months after the date of the notification given by the Director General of WIPO, that is, on August 21, 1982.

* Phonograms Notification No. 39, of May 21, 1982.

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

AUSTRIA

Ratification of the Convention

The Secretary-General of the United Nations notified the Director General of the World Intellectual Property Organization, on May 10, 1982, that the Government of the Republic of Austria deposited, on May 6, 1982, its instrument of ratification of the Convention Relating to the Distribution of Program-

me-Carrying Signals Transmitted by Satellite, adopted at Brussels on May 21, 1974.

The Convention will enter into force for Austria three months after the date of deposit of the instrument of ratification, that is, on August 6, 1982.

National Legislation

ZIMBABWE

Copyright (International Conventions) Order, 1982

(S.I. No. 126 of 1982) *

1. This order may be cited as the Copyright (International Conventions) Order, 1982.

2. In this order—

“Berne Copyright Union” means the union constituted by the Berne Convention for the Protection of Literary and Artistic Works signed on the 9th September, 1886, and completed at Paris on the 4th May, 1896, revised by the Berlin Convention signed on the 13th November, 1908, and completed at Berne on the 20th March, 1914, revised by the Rome Convention concluded on the 2nd June, 1928, revised by the Brussels Convention signed on the 26th June, 1948, at Stockholm on the 14th July, 1967, and at Paris on the 24th July, 1971;

“country of origin” means—

- (a) in the case of a published work or subject-matter, if the country of first publication is a country mentioned in the Schedule, that country;
- (b) in the case of a work or subject-matter published simultaneously in a country of the Berne Copyright Union and a country which is not a country of the Berne Copyright Union, the former country;
- (c) in the case of a work or subject-matter which is published simultaneously in several countries of the Berne Copyright Union, the country whose laws give the shortest term of protection for such a work or subject-matter;

“country of the Berne Copyright Union” means any country which has adhered to any one or more of the conventions referred to in the definition of “Berne Copyright Union”, and is mentioned in the Schedule;

“material time”, in relation to—

- (a) an unpublished work or subject-matter, means the time at which such work or subject-matter was made, or, if the making thereof extended over a period, a substantial part of that period;
- (b) a published work or subject-matter, means the time of first publication;

“published simultaneously” means—

- (a) in the case of publications occurring before the 1st January, 1967, published within a period of fourteen days;
- (b) in the case of any other publications, published within a period of thirty days.

3. (1) Subject to the provisions of this order, the provisions of Parts I and II of the Act, other than section 18, and all the other provisions of the Act relevant thereto, shall apply in the case of each of the countries mentioned in the Schedule as follows—

- (a) in relation to any works, cinematograph films or published editions first published and sound recordings made in that country, as they apply in relation to such works, films or editions first published and sound-recordings made in Zimbabwe;
- (b) in relation to persons who, at a material time, are citizens of, or domiciled or resident in, that country, as they apply in relation to persons who at such a time are citizens of, or domiciled or resident in, Zimbabwe;
- (c) in relation to bodies corporate under the laws of that country, as they apply in relation to bodies corporate under the laws of Zimbabwe.

* Published in the *Zimbabwean Government Gazette* of February 26, 1982.

(2) Notwithstanding the provisions of subsection (1)—

- (a) where copyright subsists by virtue of this order in any sound recording, it shall subsist only to the extent that protection in the nature of or related to copyright is granted under the laws of its country of origin in respect of a sound recording made in Zimbabwe, and no such sound recording shall enjoy any wider protection by virtue of this order than is enjoyed in its country of origin by a sound recording made in Zimbabwe;
- (b) where copyright subsists by virtue of this order in any published edition being a typographical arrangement of one or more literary, dramatic or musical works, it shall subsist only to the extent that protection in the nature of or related to copyright is granted under the laws of their country of origin in respect of editions first published in Zimbabwe, and no such edition shall enjoy any wider protection by virtue of this order than is enjoyed in its country of origin by an edition first published in Zimbabwe;
- (c) nothing in the provisions of the Act as applied by this order shall be construed as reviving any right to make or restrain the making of or right in respect of translations,

if such right has ceased before the commencement of this order.

4. Where any person has, before the commencement of this order, taken any action whereby he has incurred any expenditure or liability—

- (a) in connexion with the reproduction or performance of any work or other subject-matter in a manner which at the time was lawful; or
- (b) for the purposes of or with a view to the reproduction or performance of a work at a time when such reproduction or performance would but for the making of this order have been lawful;

nothing in this order shall diminish or prejudice any rights or interest which arise from or in connexion with such action and which subsist and were valuable immediately before the commencement of this order, unless the person who, by virtue of this order, becomes entitled to restrain such reproduction or performance agrees to pay such compensation as, failing agreement, may be determined by arbitration.

5. The Copyright (International Conventions) Order, 1966, published in Rhodesia Government Notice 913 of 1966, is repealed.

SCHEDULE (Section 2)

Countries of the Berne Copyright Union

Argentina	Germany (Federal Republic of)	New Zealand
Australia	Greece	Niger
Austria	Guinea	Norway
Bahamas	Holy See	Pakistan
Belgium	Hungary	Philippines
Benin	Iceland	Poland
Brazil	India	Portugal
Bulgaria	Ireland	Romania
Cameroon	Israel	Senegal
Canada	Italy	South Africa
Central African Republic	Ivory Coast	Spain
Chad	Japan	Sri Lanka
Chile	Lebanon	Suriname
Congo	Libyan Arab Jamahiriya	Sweden
Costa Rica	Liechtenstein	Switzerland
Cyprus	Luxembourg	Thailand
Czechoslovakia	Madagascar	Togo
Denmark	Mali	Tunisia
Egypt	Malta	Turkey
Fiji	Mauritania	United Kingdom
Finland	Mexico	Upper Volta
France	Monaco	Uruguay
Gabon	Morocco	Yugoslavia
German Democratic Republic	Netherlands	Zaire

General Studies

Community Economic Legislation and Copyright Legislation

Recent Case Law of the Court of Justice of the European Communities

Claude JOUBERT *

Correspondence

Letter from Belgium

Jan CORBET *

International Activities

International Seminar on the Penal Protection of Works of Art

(Siracusa, April 3 to 7, 1982)

An International Seminar on the Penal Protection of Works of Art was convened under the auspices of the International Institute of Higher Studies in Criminal Sciences (ISISC), in Siracusa, Italy, from April 3 to 7, 1982. The Seminar was organized and presided over by Mrs. Shoshana Berman, Judge in the District Court of Tel Aviv, Israel. It was opened by Professor Pierre Bouzat, President of the ISISC.

Some 40 jurists, artists, museum curators and public officials from the following countries attended the meeting: Belgium, Canada, Finland, France, Germany (Federal Republic of), Hungary, Israel, Italy, United States of America.

WIPO, which had been invited to participate in the Seminar, was represented by Mr. György Boytha, Head of the Copyright Law Division, who delivered a lecture on "The Penal Protection of Works of Visual Art Under the Berne Convention for the Protection of Literary and Artistic Works."

The main purpose of the Seminar was to draw public attention to the growing rate of criminality in the field of art and to review possible remedies for

it. The lectures given by professors and other experts from Belgium, Germany (Federal Republic of), Israel, the United States of America and the International Criminal Police Organization (Interpol) covered the most important aspects of art counterfeiting, the theft of works of art, ethics and corruption in museums, illicit trafficking in art objects across frontiers and the tax and customs implications of the international protection of copyright. Each lecture was followed by lively discussion.

In conclusion, the participants adopted the following Statement:

"Art criminality threatens the cultural heritage of all mankind. The definition and control of art criminality require familiarity with the art world. Those who make and administer the law affecting art criminality accordingly must be knowledgeable about and sensitive to the interests of artists, museums, collectors, historians, critics and dealers. Only in this way can the legal system fully and accurately define and protect the cultural patrimony."

International Federation of Musicians (FIM)

Seminar on the Administration of Performers' Rights

(Geneva, May 3 and 4, 1982)

The International Federation of Musicians (FIM) held a Seminar on the Administration of Performers' Rights in Geneva, at the WIPO Headquarters, on May 3 and 4, 1982. The meeting was attended by representatives of various national organizations members of the Federation, coming from the following 17 countries: Australia, Austria, Czechoslovakia, Denmark, Finland, France, Germany (Federal Republic of), Greece, Hungary, Israel, Japan, Norway, Spain, Sweden, Switzerland, United Kingdom, United States of America. The Seminar was chaired by Mr. John Morton, President of FIM.

Several intergovernmental and international non-governmental organizations sent observers. WIPO was represented by Mr. Claude Masouyé, Director, Public Information and Copyright Department, and Mr. Mihailo Stojanović, Head, Copyright Legislation and Periodicals Section.

Reports were submitted on:

- administration of remunerations in countries where the performers' rights are protected by the law, by A. Henry Olsson, Legal Adviser, Ministry of Justice, Stockholm;

- administration of remunerations in countries without laws for the protection of performers' rights, by Dr. Vital Hauser, Director of the Swiss Performers' Society (SIG), Zurich;
 - administration of remunerations due to foreign performers; reciprocity agreements between collecting societies of different countries, by Otto Lassen, Director of GRAMEX, Copenhagen;
 - administration of levies on blank cassettes or recording devices, by Edward Thompson, Consultant, International Federation of Producers of Phonograms and Videograms (IFPI), Geneva.
- The presentation of these reports was followed by a broad discussion on the legal situation of the protection of rights granted to musicians and the practical aspects of that protection.

Calendar

WIPO Meetings

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

1982

- 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 8 (Geneva) — Permanent Committee on Patent Information (PCPI) — Ad hoc Working Group on the Revision of the Guide to the IPC**
- 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

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 (Geneva) — Symposium (genetic engineering)

October 13 to 15 (Geneva) — Council

November 15 (Geneva) — Information Meeting with International Non-Governmental Organizations

November 16 and 17 (Geneva) — Administrative and Legal Committee

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 — November 29 to December 3 (Strasbourg)

Non-Governmental Organizations

International Association for the Advancement of Teaching and Research in Intellectual Property (ATRIP)

Assembly — September 20 and 21 (Geneva)

International Confederation of Societies of Authors and Composers (CISAC)

Congress — October 3 to 8 (Rome)

International Federation of Actors (FIA)

Congress — September 27 to October 1 (Paris)

International Federation of Library Associations and Institutions (IFLA)

General Conference — August 23 to 28 (Montreal)