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# Copyright

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## Berne Union

### Working Group on Access by the Visually and Auditory Handicapped to Material Reproducing Works Protected by Copyright

(Paris, October 25 to 27, 1982)

#### Report

##### Introduction

1. The Working Group on Access by the Visually and Auditory Handicapped to Material Reproducing Works Protected by Copyright met at Unesco House, Paris, from October 25 to 27, 1982.
2. The said Working Group (hereinafter referred to as "the Working Group") was convened jointly by the Director-General of Unesco and the Director General of WIPO in pursuance of the decision taken by the respective Governing Bodies of Unesco and WIPO and the recommendation made by the Executive Committee of the Berne Union and the Intergovernmental Committee of the Universal Copyright Convention at their November-December 1981 sessions.
3. The purpose of the Working Group was to consider the possibility of using the exceptions provided in the international copyright conventions and prepare a sample model legislation containing special provisions governing the access by handicapped persons to the works protected by copyright.
4. Of the six experts who were invited in their personal capacity, four experts attended the meeting of the Working Group. Representatives of the International Publishers Association (IPA) and the World Council for the Welfare of the Blind (WCWB) also attended the meeting in an advisory capacity. Eight international non-governmental organizations were represented by observers. The list of participants appears as Annex II to this Report.
5. The working paper available to the Working Group was a study prepared, at the request of the Secretariat of Unesco and the International Bureau of WIPO, by Mrs. Wanda M. Noel (Canada) (document Unesco/WIPO/WGH/I/2).

##### Opening of the Meeting

6. The meeting was opened by Miss M.-C. Dock, Director, Copyright Division of Unesco, who welcomed the participants on behalf of the Director-General of Unesco and the Director General of WIPO.

##### Election of Chairman

7. As proposed by Mr. Y. Oyama and seconded by Mr. P. Salinas, Mr. M. Ficsor was unanimously elected as Chairman of the Working Group.

##### Consideration of the Study

8. Several participants expressed their appreciation for the study prepared by Mrs. W.M. Noel on the subject.
9. It was generally understood that the model provisions to be elaborated should reflect a proper balance between the needs of handicapped persons and the legitimate interests of copyright owners. In this connection, it was emphasized that the problem under consideration was of a social nature and that the authors and copyright owners should not be the only ones to bear the burden of its solution.
10. It was also generally agreed that the opinion according to which copyright as such is considered an obstacle for the handicapped was not the right approach to the problem, and that only some unnecessary obstacles such as those of procedural nature should be removed.
11. The attention of the Working Group was drawn to the particular situation in developing countries, where the funds needed for assistance to handicapped persons might be insufficient, and where the time needed for obtaining the necessary permission from copyright owners might be longer than elsewhere.

12. Some representatives of international non-governmental organizations expressed their concern about possible consequences of the adoption of a special system of legal licenses which would undermine the basic principle of the exclusive right of authors. They were in favor of a solution which would include the possibility of negotiation, either on an individual or on a collective basis.

13. Many participants expressed the fear that the copies of works intended for use by handicapped persons might also be used by the general public. In view of that, the Working Group took the position that appropriate guarantees should be provided in order to prevent such unauthorized use.

14. Another difficulty mentioned was the possibility of private copying, particularly in the case of audio-visual works, the market of which was being increasingly characterized by rental practices instead of sale. In this connection, reference was also made to technical devices making the copies intended for the handicapped not accessible to other persons.

15. Lastly, the Working Group took into consideration the important fact that the number of handicapped persons in each country was relatively small and therefore the market for materials intended for them limited. This fact seemed to the experts to fully justify the exceptions which are explained in the following paragraphs.

#### **Elaboration of Model Provisions**

16. Taking into account the views expressed by the participants, the Working Group decided to redraft the draft Model Provisions proposed in the study so as to deal separately with reproduction of published works in braille and with the reproduction in large print or by sound recording or the broadcasting by means of a radio-reading service for the needs of visually-handicapped persons. The redrafted model provisions are reproduced in Annex I to this Report.

17. As it was suggested in the study and agreed upon by the experts, Alternative A as redrafted provides for certain cases of free use of published works for the needs of visually-handicapped persons but the legislation on the matter is subject to the obligations of a given State under international copyright conventions. If such use is provided for under national legislation, two solutions may be previewed with regard to the persons or organizations rendering a work accessible to visually-handicapped persons: it may be either any person or organization or only those determined in corresponding regulations. It is expressly specified that the activity of such persons or organizations must not be gainful. The free reproduction in large print, sound recordings and broadcast by means of a

radio-reading service is conditional also upon the decision of the competent authority, which should be determined in the regulations and upon appropriate guarantees that the work will be used only for the needs of visually-handicapped persons. These guarantees may include undertaking of practical or technical measures to exclude accessibility to the general public of the work thus used.

18. Although the experts were generally in favor of recommending Alternative A to be used by national legislation, they decided to provide also for Alternative B which relates to the same uses as mentioned in the preceding paragraph, but against payment of remuneration. The conditions under which such uses may be effected are virtually the same as in the above paragraph except that payment of remuneration must be in accordance with the procedure set out in the regulations. Such a procedure may be compulsory licensing where the amount of remuneration may be negotiated by the interested parties before a decision by a competent authority is taken in this respect, or legal licensing where the amount of remuneration is established in the regulations or otherwise prescribed.

19. It is not excluded that some States might prefer to combine the two Alternatives in order, for example, to provide for free reproduction of works in braille and for non-voluntary licenses in respect of other uses.

20. As regards the making of captions for auditory handicapped in the case of films and other audio-visual works, the Working Group agreed with the statement made in the study referred to above that the making of such captions involved the right of adaptation. It therefore was of the opinion that it would be incompatible with both the national legislation of the majority of countries and the international copyright conventions to provide for any kind of exceptions or non-voluntary licensing in respect of such use.

21. The representative of one of the international non-governmental organizations raised the question whether the Model Provisions contained in Alternatives A and B should also be extended to the categories of otherwise physically handicapped persons who are unable to have access to protected works in the usual way. In the opinion of the Working Group this question was not covered by its terms of reference, although it recognized that such a problem did exist and therefore should be further considered.

#### **Adoption of the Report and Closing of the Meeting**

22. The Working Group unanimously adopted this Report.

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

## ANNEX I

**Model Provisions Concerning the Access by Handicapped Persons  
to the Works Protected by Copyright**

*Alternative A*

*Article . . .* (1) It shall be permitted, subject to the obligations under the international conventions, for any person or organization [as determined in the regulations], without the consent of the author and without payment of remuneration, to reproduce in braille any published work or authorized translation thereof for the purpose of rendering the work accessible to visually-handicapped persons, provided there is no motive of commercial gain.

(2) The competent authority [as determined in the regulations] may permit any person or organization [as determined in the regulations], without the consent of the author and without payment of remuneration, to reproduce in large print or by sound recording or to broadcast by means of a radio-reading service any published work or authorized translation thereof for the purpose and subject to the conditions determined in paragraph (1), if there are appropriate guarantees that the work will be used only for the needs of visually-handicapped persons.

*Alternative B*

*Article . . .* (1) It shall be permitted, subject to the obligations under the international conventions, for any person or organization [as determined in the regulations], against payment of remuneration [in accordance with the procedure set out in the regulations], to reproduce in braille any published work or authorized translation thereof for the purpose of rendering the work accessible to visually-handicapped persons, provided there is no motive of commercial gain.

(2) The competent authority [as determined in the regulations] may permit any person or organization [as determined in the regulations], against payment of remuneration [in accordance with the procedure set out in the regulations], to reproduce in large print or by sound recording or to broadcast by means of a radio-reading service any published work or authorized translation thereof for the purpose and subject to the conditions determined in paragraph (1), if there are appropriate guarantees that the work will be used only for the needs of visually-handicapped persons.

## ANNEX II

**List of Participants**

**I. Invited Experts**

- M. Claude Colombet  
Professeur à la Faculté de droit de Paris-Sud (France)
- M. Mihály Ficsor  
Directeur général  
Bureau hongrois pour la protection des droits d'auteur (ARTISJUS)
- M. Imaïla Konaté (absent)  
Président  
Association malienne pour la promotion sociale des aveugles
- Mr. Yukifusa Oyama  
Copyright Adviser  
Agency for Cultural Affairs (Japan)
- M. Mohammed Rajhi (absent)  
Président  
Union nationale des aveugles de Tunisie
- Mr. Pedro Antonio Salinas Jaramillo  
National Supervisor of Special Education  
Instituto Panameño de Habilitación Especial

**II. International Non-Governmental Organizations**

(a) Attending the meeting in an advisory capacity

**International Publishers Association (IPA):** J.A. Koutchoumow. **World Council for the Welfare of the Blind (WCWB):** D. de Gouvêa Nowill; L. Vecera.

(b) Observers

**European Broadcasting Union (EBU):** R. Laurent. **International Confederation of Societies of Authors and Composers (CISAC):** M. Pickering. **International Copyright Society (INTERGU):** G. Halla. **International Federation of Journalists (IFJ):** S.O. Grønsund. **International Federation of Library Associations and Institutions (IFLA):** M. Wijnstroom; F. Hébert. **International Federation of Phonogram and Videogram Producers (IFPI):** E. Thompson. **International Literary and Artistic Association (ALAI):** D. Gaudel. **International Music Council (IMC):** N.L. Wallin.

**III. Secretariat**

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

M.-C. Dock (*Director, Copyright Division*); E. Guerassimov (*Lawyer, Copyright Division*).

**World Intellectual Property Organization (WIPO)**

M. Stojanović (*Head, Copyright Legislation and Periodicals Section, Public Information and Copyright Department*).

## National Legislation

### COLOMBIA

#### Law on Copyright

(No. 23, of January 28, 1982) \*

(Articles 151 to 260)

#### CHAPTER X

##### Contracts for Phonographic Fixation

*Article 151.* Under a contract for phonographic fixation, the author of a musical work authorizes a natural person or legal entity, against remuneration, to record or fix a work on a phonographic disc, tape, film, paper roll or any other similar device or machine for the purposes of reproduction, dissemination or sale.

This authorization shall not include the right of public performance. The phonogram producer shall mention this reservation on the label that is to be affixed to the disc, device or machine on which the recording is to be made.

*Article 152.* Where a recording contract specifies that the remuneration of the author is to be proportionate to the number of copies sold, the phonogram producer shall maintain a registration system whereby that number may be verified at any time. The author or his representatives may verify the accuracy of the corresponding financial settlement by inspection of the workshops, storerooms, warehouses and offices of the producer, which inspection the author or his representatives may make either personally or through another person duly authorized in writing.

*Article 153.* The author or his representatives, and also the producer of phonograms, may either jointly or separately bring judicial action against unlawful production or use of the phonograms or of the devices or machines on which the work has been fixed.

*Article 154.* The recording contract shall not include any other means of use of the work, neither

may it be assigned either entirely or in part without the authorization of the author or his representatives.

*Article 155.* Future production may not be the subject of a contract as provided for in this Chapter, except where the commitment is to the production of a maximum of five works of the same kind as that which is the subject of the contract and during a period that may not be longer than five years from the date thereof. Any provision shall be null and void under which the author either commits his future production in a general or indeterminate way, or undertakes to restrict such production or to abstain from such production.

*Article 156.* The provisions of this Chapter shall be applicable, as appropriate, to literary works that are used as text for a musical work, or for declamation or reading aloud, if the author of the said work has authorized the phonogram producer to fix or record it on a disc, tape or any other similar device or machine for the purposes of reproduction, dissemination or sale.

*Article 157.* Any dispute that may arise between the producer and the author in connection with a contract for phonographic fixation shall be settled by means of the oral procedure provided for in the Code of Civil Procedure, except where the parties have agreed in the contract to submit such disputes to arbitration.

#### CHAPTER XI

##### Public Performance of Musical Works

*Article 158.* Public performance by any means, including broadcasting, of a musical work with or without words shall require express prior authorization from the owner of the rights or his representatives.

\* Published in *Diario Oficial* of February 19, 1982. — WIPO translation.

*Article 159.* For the purposes of this Law, public performances shall be understood as being those made in theaters, cinemas, concert or dance halls, bars, clubs of any kind, sports grounds, circuses, restaurants, hotels, commercial, banking and industrial establishments and finally any place in which musical works are performed or transmitted by radio and television, either with the participation of performers or by mechanical or electronic sound or audiovisual processes.

*Article 160.* The administrative authorities of the locality shall not authorize the holding of shows or public performances without the person responsible for them presenting the program thereof, together with the authorization of the owners of the rights or their representatives.

*Article 161.* The administrative authorities of all kinds shall withhold the grant of operating licenses to those establishments in which musical works are performed in public until such time as the applicant for the license in question presents the necessary evidence of his having fully paid the corresponding copyright fees to the authors or their representatives or successors in title.

*Article 162.* The Ministry of Communications shall not permit broadcasting organizations to make use in their broadcasts of scientific, literary or artistic works and artistic productions that have not been expressly authorized beforehand by their owners or owners' representatives.

*Article 163.* The person who has the responsibility of managing the entities or establishments specified in Article 159 of this Law in which public performance of musical works takes place shall be obliged:

- (i) to display the daily program of those works in a public place;
- (ii) to keep a record on daily planning sheets, in strict order, of the title of each musical work performed, the name of the author or composer thereof, those of the performers who perform in it, or that of the leader of the group or orchestra conductor, as appropriate, and the name or trademark of the recording firm where the public performance is made by means of a phonomechanical fixation; and
- (iii) to submit an authentic copy of the above planning sheets to the authors or performers or to the producers of the phonograms that are involved in them, or to their legal or contractual representatives on request.

The planning sheets referred to in this Article shall be dated and signed and made available to interested parties, or to the competent

administrative or judicial authorities when they ask to examine them;

- (iv) not to use performances made by persons whom the author or his representatives have prohibited from performing his work or a collection of his works on the grounds of copyright infringements.

*Article 164.* For the purposes of this Law, it shall not be considered public performance when a performance is made for strictly educational purposes within the grounds or buildings of the educational establishments concerned, provided that no admission charge whatever is made.

## CHAPTER XII

### Neighboring Rights

*Article 165.* The protection afforded by the provisions in this Chapter shall in no way affect the protection of the copyright in literary, scientific and artistic works provided for in this Law. Consequently, none of the provisions of this Chapter may be interpreted as diminishing such protection.

*Article 166.* Performers or their representatives shall have the right to authorize or prohibit the fixation, recording, communication to the public, transmission or any other form of use of their performances. Consequently, without the authorization of the performers, no person may do any of the following acts:

- (a) broadcasting and communication to the public of their performance, except where it is made from a previously-authorized fixation, or where the transmission is one that has been authorized by the broadcasting organization that transmits the first performance;
- (b) fixation of their performance not previously fixed on a physical medium;
- (c) reproduction of a fixation of their performance in the following cases: (1) where the performance was initially fixed without their authorization; (2) where the reproduction is made for purposes different from those for which the performers gave their authorization; and (3) where the performance was initially fixed in accordance with the provisions of this Law, but the reproduction is made for purposes different from those specified.

*Article 167.* Unless otherwise provided, it shall be understood that:

- (a) the authorization to broadcast does not imply an authorization to license other broadcasting organizations to transmit the performance;

- (b) the authorization to broadcast does not imply an authorization to fix the performance;
- (c) the authorization to broadcast and fix the performance does not imply an authorization to reproduce the fixation; and
- (d) the authorization to fix the performance and to reproduce the fixation does not imply an authorization to broadcast the performance from the fixation or any reproduction of such fixation.

*Article 168.* Once the performers have authorized the incorporation of their performance in a visual or audiovisual fixation, the provisions of (b) and (c) of Article 166 and (c) of Article 167 above shall cease to apply.

*Article 169.* Nothing in the foregoing Articles shall be construed as depriving performers of the right to agree by contract on terms and conditions more favorable to them for any use of their performances.

*Article 170.* When two or more performers take part in the same performance, it shall be understood that the consent provided for in the foregoing Articles has been given by the legal representative of the group, if any, or, if there is none, by the leader of the group.

*Article 171.* Performers shall have the moral rights specified in Article 30 of this Law.

*Article 172.* The producer of a phonogram shall have the right to authorize or prohibit the direct or indirect reproduction of that phonogram.

An unlawful copy shall be understood to be one which, with or without imitating the outward characteristics of the lawful copy, incorporates all or part of the producer's phonogram without his authorization.

*Article 173.* When a phonogram published for commercial purposes, or a reproduction of such phonogram, is used directly for broadcasting or for any other form of communication to the public, a single equitable remuneration for the performers and the producer of the phonogram shall be paid by the user to the producer.

*Article 174.* Half of the amount received by the producer under the foregoing Article shall be paid by the producer to the performers, or to those who represent them, unless it is agreed that they shall be paid a higher amount.

*Article 175.* The producer of the phonogram shall be under the obligation to state on the label of the disc or equivalent device or machine, or on its wrapper, the name of the author and those of the main performers, the title of the work, the year of the cutting of the original matrix, the name, corporate

name or distinguishing mark of the producer and the fact that the rights legally accruing to him are reserved. Choirs, orchestras and composers shall be designated by their proper name and by the name of the leader, if any.

*Article 176.* The use of phonographic discs and other devices or machines referred to in Article 151 of this Law in public performance by means of broadcasting, cinematography, jukeboxes or similar apparatus, in any public place, whether open or enclosed, shall give rise to the collection of royalties in favor of the authors, performers and phonogram producers under the conditions specified in this Law.

*Article 177.* Broadcasting organizations shall have the exclusive right to authorize or prohibit the following acts:

- (a) rebroadcasting of their broadcasts;
- (b) fixation of their broadcasts;
- (c) reproduction of a fixation of their broadcasts:
  - (1) where the fixation used to make the reproduction was made without authorization;
  - (2) where the broadcast was initially fixed in accordance with the provisions of this Law, but the reproduction is made for purposes different from those specified.

*Article 178.* The preceding Articles of this Law shall not apply where the acts referred to in those Articles are concerned with:

- (a) private use;
- (b) the reporting of current events, provided that no more than short excerpts of a performance, phonogram or broadcast are used;
- (c) use solely for the purposes of teaching or scientific research;
- (d) quotations in the form of short excerpts of a performance, phonogram or broadcast, provided that such quotations are compatible with fair practice and are justified by the informative purpose of such quotations.

*Article 179.* Broadcasting organizations may make ephemeral recordings of works and performances whose owners have consented to the broadcasting thereof, for the sole purpose of using them for a specified number of times in their own broadcasts, and they shall be obliged to destroy the recordings immediately after the last authorized transmission.

*Article 180.* As a condition of protection of phonograms under the foregoing Articles, all copies in commerce shall bear a notice consisting of the circled P symbol, accompanied by the year date of the first publication, placed in such a manner as to give reasonable notice of claim of protection. If the copies or their containers do not identify the producer or the licensee of the producer by carrying his name, trade-

mark or other appropriate designation, the notice shall also include the name of the owner of the rights of the producer. If the copies or their containers do not identify the principal performers, the notice shall also include the name of the person who owns the rights of such performers under this Law.

*Article 181.* Nothing in this Law shall prejudice the right of natural persons or legal entities to use, in accordance with the requirements of this Law, fixations and reproductions made in good faith before the date of its coming into force.

### CHAPTER XIII

#### Transfer of Copyright

*Article 182.* The owners of copyright and neighboring rights may transfer their rights to third parties either wholly or in part, universally or in particular.

Paragraph. The transfer of rights, whether whole or partial, shall not include the moral rights specified in Article 30 of this Law.

*Article 183.* Any instrument disposing of copyright, whether wholly or in part, shall be evidenced by a public deed, or by a private deed executed before a notary, which deeds shall, in order to be binding on third parties, be registered at the Office of Copyright Registrations, according to the formalities specified in this Law.

*Article 184.* Where the contract refers to the making of a photograph, painting, drawing, portrait, engraving or other similar work, the completed work shall be the property of the person who commissioned it.

*Article 185.* Unless otherwise provided, transfer of a pictorial work, sculpture or work of figurative art in general shall not confer on the acquirer the right of reproduction, which shall continue to belong to the author or his successors in title.

*Article 186.* The remittance of the negative shall presume assignment of the photograph to the acquirer, who shall also have the right of reproduction.

### CHAPTER XIV

#### The Public Domain

*Article 187.* The following shall belong to the public domain:

- (i) works whose term of protection has expired;
- (ii) works of folklore and traditional works by unknown authors;

- (iii) works whose authors have renounced their rights; and
- (iv) foreign works that do not enjoy protection in the Republic.

*Article 188.* For the purposes of item (iii) of the foregoing Article, renunciation, by authors or heirs, of the economic rights in the work shall be presented in writing and made public, always provided that such renunciation is not contrary to previously contracted obligations.

*Article 189.* Indigenous art in all its manifestations, including dances, songs, crafts, drawings and sculptures, shall belong to the cultural heritage.

### CHAPTER XV

#### National Register of Copyrights

*Article 190.* The necessary registers shall be kept at the Office of Registration for the recording of the various works and productions, instruments and contracts relating thereto, and also for the registration of authors' associations.

The main books of the register and the indexes shall be bound and shall contain as many leaves as are calculated to be necessary for the operations for which they are intended during the period of their validity. The leaves shall in addition be numbered.

*Article 191.* The established provisions in force for notarial books and registers shall be applicable, in so far as their nature and subject matter permit, to the books kept for these purposes.

*Article 192.* The following shall be subject to registration:

- (i) all scientific, literary and artistic works in the private domain, according to this Law;
- (ii) all artistic productions fixed on a physical medium;
- (iii) any instrument of disposal and any contract for translation, publication and participation, and any other instrument or contract associated with copyright;
- (iv) the associations specified in Chapter XVI of this Law;
- (v) the powers of attorney granted to natural persons or legal entities for dealings with the competent body relating to matters governed by this Law.

*Article 193.* The purpose of the registration of the works and instruments subject to the formalities specified in the foregoing Article shall be:

- (a) to publicize the rights of the owners and the instruments and contracts that transfer or alter the ownership covered by the Law; and
- (b) to give a guarantee of authenticity and security to the titles of intellectual property and to the instruments and documents referring thereto.

*Article 194.* The registration of works and instruments shall where possible be adapted to the form and terms laid down in ordinary legal provisions on the registration of public or private deeds.

All such entries shall be signed in the corresponding book or books by the competent official.

*Article 195.* In order to effect registration, the interested party shall address a written request to the competent body, in which he shall express clearly:

- (i) the surname, given name and identity card number of the applicant, and his address, including a statement as to whether he is speaking in his own name or as the representative of another, in which case he shall also submit proof of his representative capacity and state the surname, given name, title and address of the person represented;
- (ii) the surnames, given names and addresses of the author, producer, publisher and printer, and identification of each one of them;
- (iii) the title of the work or production, the place and date of its publication and, in the case of literary or scientific works, the number of volumes, their format, the number of pages that they contain, the number of copies, the dates on which printing was completed, and all other circumstances that in any way contribute towards perfect knowledge of it.

*Article 196.* If the literary or scientific work is printed, six copies of it shall be submitted as follows: two to the National Library, one to the Library of the National University, one to the Library of Congress, one to the *Instituto Caro y Cuervo*, and another one, together with prior receipts and the request for registration, to the Office of Registration. This deposit shall be effected by the publisher within a period of 60 days following the publication of the work concerned.

No request for registration of literary or scientific works shall be processed without prior proof that the copies specified in the foregoing paragraph and that corresponding to Article 207 have been presented.

*Article 197.* The same requirements as in the foregoing Article shall apply to the registration of phonograms and videograms.

*Article 198.* If the work is unpublished, the Office of Registration shall be presented with a single copy of it, typewritten, without alterations, deletions

or insertions, with the authenticated signature of the author, and properly bound.

If the unpublished work is a theatrical or musical work, it shall be sufficient to submit a copy of the manuscript, also with the authenticated signature of the author, and properly bound.

*Article 199.* If the work is a single artistic work, such as a canvas, bust, portrait, painting, drawing, work of architecture or sculpture, the deposit shall be effected by means of a description of the work, accompanied by a photograph which, in the case of works of architecture and sculpture, shall show both frontal and lateral views.

In order to effect the deposit of plans, sketches, maps and photographs, a copy thereof shall be filed with the Office of Registration. For models and works of art, a copy or photograph of the model or work shall be filed together with a detailed written description of the characteristics that cannot be evaluated on the copy or photograph.

*Article 200.* If the work is a cinematographic work or an audiovisual fixation obtained by a comparable process, the request referred to in Article 195 shall be accompanied by:

- (a) an account of the plot, dialogue, scenario and music;
- (b) the surnames and given names of the producer, scriptwriter, composer, director and main performers;
- (c) a statement of the meterage of the film; and
- (d) as many photographs as the film comprises main scenes, in such a form that it may be judged that the work is original.

*Article 201.* In the case of anonymous or pseudonymous works, the rights shall be entered under the name of the publisher, except where the pseudonym is registered.

If the work is posthumous, registration may be effected in the name of the author or of the heirs that have been recognized under the Law.

*Article 202.* For the registration of instruments of disposal and contracts for translation, publication and participation, and for that of any other instrument or contract associated with copyright, the Office of Registration shall be presented with a copy of the instrument or title concerned, which shall not be considered authentic if this requirement is not met.

*Article 203.* Where copyright has been transferred or otherwise passed on by way of total or partial disposal, in accordance with a judgment issued by a competent court or for any other reason, the Office of Registration, on request and on receipt of the relevant documents, shall record the operation in the appropriate book.

*Article 204.* Registration or recording shall be set down in a minute, which shall show:

- (a) the day, month and year in which it is effected;
- (b) the surname, given name, identity card number and address of the applicant, with a mention of whether he is acting in his own name or as the representative of another person, in which case it shall mention the document evidencing representation and the surname, given names, identity card number and address of the person represented;
- (c) the surnames, given names and addresses of the author, publisher and printer, and their identification;
- (d) a description of the work or production, with all identifying details.

*Article 205.* Immediately after registration has been effected, a certificate shall be made out and issued to the party concerned.

This certificate shall contain the date on which the registration was accomplished; the book or books and the folio or folios in which the registration was effected; the title of the work registered and any other circumstance that may afford accurate knowledge thereof and serve to identify it at any time; the surname, given names, identification and address of the owner in whose name the intellectual rights have been registered.

*Article 206.* Applicants shall not pay any fees for the first extract from the Register or certificate of registration of a work; for any further certificate, copy or extract that they require, however, they shall pay whatever fees are specified for the production of each such document.

*Article 207.* The publisher shall deposit with the Office of Registration a copy of any printed work that is published in Colombia within 60 working days following its publication. Failure to effect this deposit and comply with the provisions of Article 196 of this Law shall be punished by a fine equal to ten times the commercial value of each copy not deposited. Any person may report such infringements.

*Article 208.* In the case of foreign works that are protected by international conventions or treaties in force or by mere legislative reciprocity, their registration shall be optional for the owner concerned.

*Article 209.* The managers or directors of journals, reviews and in general all periodical publications shall be obliged to send three copies of each of their publications, one to the Government Ministry, one to the National Library and the third to the National University. When the managers and directors of these publications fail to comply with this obligation on

three consecutive occasions, the registration of the title of the publication shall be cancelled by a decision accompanied by a statement of grounds.

*Article 210.* The directors of official publications, whether journals or reviews or publications of any other kind, shall have the same obligations as other publishers, and they shall effect deposits of works at the offices referred to in the foregoing Article. In the absence of a director, this obligation shall be incumbent on the person responsible for publication.

## CHAPTER XVI

### Authors' Associations

*Article 211.* The owners of copyright may form non-profit-making associations with legal personality and their own resources for the defense of their interests in accordance with the provisions laid down in this Law.

*Article 212.* The recognition of the legal personality of such associations shall be granted by the National Copyright Directorate, which may supervise its operation.

*Article 213.* Authors' associations may neither be set up nor function with fewer than 25 authors, who must belong to the same area of activity.

*Article 214.* Authors may belong to two or more authors' associations, depending on the diversity of their works.

*Article 215.* Authors' associations shall have the following main purposes:

- (a) to promote the intellectual production of their members and the furtherance of national culture;
- (b) to administer the economic rights of their members, in accordance with their statutes;
- (c) to secure better economic rewards and social security for their members.

*Article 216.* The responsibilities of authors' associations shall be the following:

1. To represent their members before the judicial and administrative authorities in all matters of general and particular interest to them; members may assist the representatives of their association personally before the judicial authorities in business conducted by the said representatives that affects them.

2. To enter into contracts on behalf of their members and of other authors in strictly copyright matters, according to the terms of the mandates that

the latter confer on them and without disregarding the limitations imposed by this Law.

3. To collect and hand over to their members, and to foreign authors in the same area of activity, the remuneration accruing to them from their copyrights; for the exercise of this function the associations shall be regarded as the agents of their associates for all legal purposes, by the simple fact of the latter's affiliation to them.

4. To enter into contracts or agreements as the representatives of their members in connection with matters of general or specific interest.

5. To enter into agreements with foreign authors' societies in the same or corresponding areas of activity on the basis of reciprocity.

6. To represent foreign authors' societies or their members within the country, either on specific instructions or under reciprocal arrangements.

7. To ensure the safeguarding of national intellectual and artistic traditions.

8. Such other responsibilities as are authorized by this Law and the associations' statutes.

*Article 217.* Authors' associations shall be organized and shall operate according to the following provisions:

1. They shall admit as members authors who so request and who provide due evidence of their status as such in the area concerned and of the fact that their works are exploited or used as provided in this Law.

Persons who are owners of works that are out of use or exploitation shall cease to form part of an association. The statutes of the association shall determine the form and conditions of their withdrawal from it, and also the cases of expulsion and suspension of membership rights.

2. Associations shall have the following bodies and officer: General Assembly, Management Council, Supervisory Committee and Treasurer.

In cases where the authors' associations represent their members individually before the administrative or judicial authorities or any other person in matters relating to this Law, representation shall be by agreement; in such a situation there shall be agreement on the fees payable for the mandate concerned.

*Article 218.* The Assembly shall be the supreme body of the association and shall elect the treasurer and the members of the Management Council and Supervisory Council. Its powers, functions and the manner of its convening shall be specified in the statutes of the association concerned.

*Article 219.* The Management Council shall be composed of a number of active members of the association, not lower than three or higher than nine,

who shall be elected by the General Assembly according to the electoral quotient system. When alternates are elected, they shall be personal.

*Article 220.* The Management Council shall be the managing and administrative body of the association, responsible to the General Assembly, whose instructions it shall carry out. Its powers shall be specified in the statutes.

*Article 221.* The Management Council shall elect a Manager, who shall implement the decisions and agreements of the Management Council. His powers shall be specified in the statutes.

*Article 222.* The Supervisory Committee shall be composed of three active members of the association.

*Article 223.* Agreements, conventions or contracts entered into by Colombian authors' associations with foreign societies shall not be effective unless they are registered with the competent authority.

*Article 224.* Any contractual dealings engaged in by authors that in any way modify, transfer, encumber or extinguish the economic rights conferred on them by this Law shall not be effective until they have been registered with the competent authority.

Authors' associations may not in any way restrict the contractual freedom of their members.

*Article 225.* Authors' associations shall draw up their expenditure budgets for periods not exceeding one year in General Assembly.

After this Law has been enforced for five years, the amounts of such budgets may not in any event exceed 30% of the sums collected by the association for members established in the country and of the amounts collected for authorization within the national territory in respect of works by authors, national or other, established abroad.

Only the General Assemblies of authors' associations may authorize distributions that are not originally provided for in each budget, without exceeding the limits mentioned above, the directors of the association being collectively liable for infringements of this Article.

*Article 226.* Claims for fees or royalties collected by associations and notified personally to their members shall be barred by limitation after three years in favor of associations. In the case of royalties or fees of authors from abroad, the principle of reciprocity shall apply.

*Article 227.* The statutes of authors' associations shall contain the following as a minimum:

- (a) denomination, domicile and territorial area of activity;

- (b) object of activities;
- (c) requirements and procedures for the acquisition, suspension and loss of membership;
- (d) rights and obligations of and prohibitions affecting members, and manner of exercise of voting rights;
- (e) details of the system and procedure for electing managing bodies;
- (f) forms of management, organization, administration and internal supervision;
- (g) composition of managing bodies, supervision and determination of their functions;
- (h) forms in which working capital is constituted and increased;
- (i) duration of each accounting period;
- (j) rules for the dissolution and liquidation of the association;
- (k) rules for the administration of its assets, approval and implementation of budgets and presentation of balance sheets;
- (l) procedure for the revision of the statutes;
- (m) such other provisions as are considered necessary for the proper and normal operation of the association.

*Article 228.* The statutes that have been approved by the authors' association in General Assembly shall be submitted to the competent authority for verification of legality.

Once revised and found to be in conformity with the law, registration of the statutes shall be ordered and recognition of legal personality shall be recognized by resolution.

*Article 229.* Only those authors' associations that are set up and registered according to the provisions of this Law may be considered such and may exercise the responsibilities specified therein.

*Article 230.* The Treasurer and the persons who form part of the Management Council or of the Supervisory Committee of an authors' association may not form part of comparable bodies in other authors' associations.

*Article 231.* In the exercise and accomplishment of their functions and responsibilities, authors' associations shall abide by the provisions of this Chapter, and they shall be subject to inspection and supervision by the competent authority.

## CHAPTER XVII

### Sanctions

*Article 232.* The following persons shall be liable to imprisonment for three to six months without remission and to a fine of 50,000 to 100,000 pesos:

- (i) those who, in relation to an unpublished work or artistic production and without the authorization of the author, artist or producer, or their successors in title, enter the work or production in the Register or publish it by any means of reproduction, multiplication or dissemination, as if it were their own or that of another person different from the real author, or with the title altered or removed, or with the text altered fraudulently;
- (ii) those who, in relation to a published and protected production, commit any of the acts specified in the foregoing paragraph or, without the permission of the owner of the copyright, reproduce, adapt, transpose, amend, recast or condense it, and publish or disclose any of the said works by any means of reproduction, multiplication or dissemination;
- (iii) those who, in relation to a pictorial work, sculpture or comparable work of art that belongs to the private domain, enter it in the Register as being their own or reproduce it without the permission of the copyright owner;
- (iv) those who, in relation to legally protected plans, sketches and similar works, enter them in the Register as being their own or publish them or have them reproduced, or use them for works that the author did not take into account when making them, or dispose of them without the permission of the copyright owner;
- (v) those who reproduce a work that has already been published and display fraudulently on the infringing edition the name of the authorized publisher;
- (vi) those who, being the authorized publisher, printer or any other person, produce or reproduce a greater number of copies than that requested or authorized by the owner of the copyright in the work;
- (vii) those who reproduce, import or distribute phonograms without the authorization of the owner of rights therein;
- (viii) those who, in any manner or by any means, make use of a work without the authorization of its author or the right owners, granted in any of the forms provided for in this Law;
- (ix) those who arrange or undertake the fixation, performance or reproduction, showing, distribution, commercialization, dissemination or representation of the said work without due authorization;
- (x) those who publish, sell or reproduce or disseminate a published work or phonogram, incorrectly mentioning the names of the author, authorized publisher, performers or producer;
- (xi) those who reproduce, disseminate, perform or distribute one or more works after expiration

- of the term of any authorization granted for the purpose;
- (xii) those who make false statements directly or indirectly intended for the payment or distribution of authors' economic rights, by altering data relating to audiences, the type, price and number of tickets sold for a show or gathering or the number of tickets distributed free of charge, in a manner that might be prejudicial to the author;
  - (xiii) those who make false statements directly or indirectly intended for the payment or distribution of authors' economic rights, by altering the number of copies produced, sold or distributed free of charge, in a manner that might be prejudicial to the author;
  - (xiv) those who make false statements intended for the distribution of authors' economic rights, by omitting, replacing or wrongly inserting information on the works concerned;
  - (xv) those who commit acts intended to falsify the real proceeds from a show or gathering;
  - (xvi) liability for the acts described in this Article shall extend to any person who orders or arranges for them to be done, to the legal representatives of legal entities and to all those who, being aware of the unlawfulness of the act, were party to it, promoted it or concealed it.

*Article 233.* The following shall be liable to a fine of 20,000 to 50,000 pesos:

- (i) any person who abuses the right of quotation referred to in Article 31;
- (ii) any person who commits an act of fraud or the act provided for in Article 87; and
- (iii) the person responsible for the public performance of theatrical and musical works or phonograms without the authorization of the owner of the copyright, or without appropriate remuneration for the economic rights involved.

*Article 234.* The fines specified in the foregoing Articles shall be increased up to half the amount of the material prejudice caused when the amount of the infringement is greater than 100,000 pesos or if, although smaller, it has caused the victim serious difficulty in ensuring his livelihood.

*Article 235.* Any person who, without being an author or publisher or the successor in title or representative of any such person, falsely attributes any of those titles to himself, and causes the authorities to suspend the public performance of the latter's work, shall be punished with arrest for two to six months and with a fine of 2,000 to 20,000 pesos.

*Article 236.* Any unlawful publication or reproduction shall be confiscated and, in the criminal sen-

tence imposed on the offender, awarded to the owner whose copyright was defrauded by that act.

*Article 237.* The actions to which such infringements give rise shall be brought before the ordinary criminal authorities according to the general rules on jurisdiction; with respect to both summary proceedings and judgments, the formalities laid down in the Code of Criminal Procedure shall be observed without any modification, except as specified in the following Article.

*Article 238.* Civil action for redress of damages or prejudice caused by violation of this Law may be exercised within the criminal process or separately, before the competent civil jurisdiction, at the option of the injured party.

In the second of the above cases, the civil and criminal judgments shall be independent, and the final ruling in one of them shall not justify *res judicata* exception in the other.

*Article 239.* Criminal action resulting from infringements of this Law shall be public in all cases and shall be instituted *ex officio*.

*Article 240.* The associations referred to in Chapter XVI may plead on their own behalf in both civil and criminal proceedings in defense of the economic rights of their principals, provided that they present a certificate issued by the competent authority proving that they are legally registered.

*Article 241.* The owner, associate, manager or director of, or the person responsible for activities carried on in, the places mentioned in Article 159 of this Law in which theatrical or musical shows are held shall be jointly liable with the organizer of the show for any copyright violations that occur in those places.

## CHAPTER XVIII

### Procedure before the Civil Courts

*Article 242.* Questions raised in connection with this Law, either concerning the application of its provisions or as a consequence of legal acts and circumstances connected with authors' rights, shall be decided by the ordinary courts of law.

*Article 243.* Notwithstanding the provisions of the foregoing Article, the municipal civil judges shall hear civil questions arising from the payment of fees for the public performance of works and from the obligations written into Article 163 of this Law in a single, oral proceeding.

*Article 244.* The author, publisher, performer, phonogram producer, broadcasting organization, their successors in title and any person representing them either legally or contractually may apply to the judge for preventive seizure of:

- (i) any work, production, publication and copies;
- (ii) the proceeds from the sale and hiring of such works, productions, publications or copies;
- (iii) the proceeds from the sale and hiring of theatrical, cinematographic, musical and other similar shows.

*Article 245.* The same persons as those mentioned in the first paragraph of the foregoing Article may apply to the judge for the prohibition or suspension of the performance or showing of a theatrical, musical, cinematographic or other similar work which is about to be performed or shown in public without due authorization from the owner or owners of the copyright.

*Article 246.* For action under Article 244 to be valid, the party applying for the measure shall be required to assert that he has sued or is going to sue the person against whom the measure is sought for legal acts and facts associated with copyright, which acts and facts he shall specify in the suit.

*Article 247.* The measures referred to in Articles 244 and 245 shall be ordered immediately by the judge in so far as the party seeking them has provided sufficient security to guarantee the organizer or impresario responsible for the theatrical, cinematographic or musical show against any prejudice that it might cause him, and presented *prima facie* evidence in support of his right. The measure may be a preventive measure ordered by the municipal or circuit judge of the place in which the show is to take place, even where he is not competent to hear the action. The show shall be suspended without any possibility of appeal, and in other respects the relevant provisions shall be complied with.

*Article 248.* The provisions covered by Book 4, Title 35, of the Code of Civil Procedure on preventive seizure and confiscation shall be applicable to this Chapter.

*Article 249.* The person who applies for the measures provided for in the foregoing Articles shall not be obliged to file, with his application, proof of legal capacity or of representation, which is referred to in his action.

*Article 250.* The creditors of a theatrical or other similar person may not confiscate the share of the proceeds from shows that accrues to the author or performer, neither shall that part be deemed to form part of the decree ordering seizure, except where seizure has been ordered against the author himself.

*Article 251.* The petition shall meet all the requirements and contain all the particulars provided for in Articles 75 and 398 of the Code of Civil Procedure.

*Article 252.* When the petition has been allowed, the oral proceeding referred to in Articles 443 and 449 of the Code of Civil Procedure shall take place.

## CHAPTER XIX

### Final Provisions

*Article 253.* A Copyright Directorate shall function in the capital of the Republic which shall be responsible for the Office of Registration and for such other departments as are necessary for the implementation of and supervision of compliance with this Law and any further corresponding provisions that may be enacted by the National Government by virtue of its executive powers.

The Copyright Directorate shall be the "competent authority" referred to in various parts of this Law (Articles 45, 46, 47, 54, 59, 85, 88, etc.).

*Article 254.* In order to be National Director of Copyright, the candidate has to be a qualified attorney, to have acquired specialized experience in the subject area and to possess the minimum qualifications under the laws in force for the title of Registrar of Public Deeds.

*Article 255.* The organizations of copyright owners that already exist, regardless of their specialized area of concern, shall adjust their statutes, structure and functions to the provisions of this Law within a non-renewable period of six months calculated from the date of its entry into force.

*Article 256.* Contracts in force that have been concluded by copyright owners in matters to which this Law refers shall, in so far as they contain clauses contrary to it, be fully adapted to its provisions within six months following its publication.

*Article 257.* In the case of dispute or doubt as to the application of the provisions of this Law, the provision most favorable to the copyright owner shall be applied.

*Article 258.* The National Government is hereby empowered to enact such provisions of administrative, financial and budgetary character as are necessary for the due implementation of this Law.

*Article 259.* This Law shall repeal Law 86 of 1946 and any other provisions that may be contrary to it.

*Article 260.* This Law shall come into force on the date of its promulgation.

**General Studies**

**Reform of United Kingdom Copyright**

Victor TARNOFSKY \*









## **Correspondence**

### **Letter from Argentina**

#### **Slogans or Advertising Phrases**

Carlos Alberto VILLALBA \*





## International Activities

### International Federation of Library Associations and Institutions (IFLA)

#### 48<sup>th</sup> General Conference

(Montreal, August 22 to 28, 1982)

The International Federation of Library Associations and Institutions (IFLA) held its 48<sup>th</sup> General Conference in Montreal from August 22 to 28, 1982. More than 1,900 delegates from 62 countries and ten international organizations participated in the Conference. WIPO was represented by Miss Mireille Zarb, Chief of the Library of the International Bureau.

The general subject of this Conference was "The Networks," but all areas of library science were

touched upon as were the problems which copyright poses for librarians.

WIPO had been specially invited by IFLA to participate in a restricted working group, held prior to the opening of the Conference, to examine a study entitled "Copyright and Library Materials for the Handicapped." The meeting led to a number of recommendations concerning the definition of a handicapped person, the possibility of mentioning in the

national bibliographies those works for handicapped persons that existed in a special format, and the physical and legal means to be given to handicapped people to make all forms of published documentation accessible for them.

These same problems were subsequently discussed at length during a Round Table of libraries for the blind, which adopted a resolution supporting IFLA in any action that could be taken at either national level or international level to facilitate access to documentary material for handicapped persons.

Other submissions were also made to the Conference on further subjects such as, for example: "Findings of the IFLA International Study on the Copyright of Bibliographic Records in Machine-Readable Form," "Documentary Information Banks and the Law," "Documentation Holdings on Patents in the Soviet Union," "Patent Search in Special Libraries."

The next General Conference of IFLA will be held in Munich from August 22 to 27, 1983.

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

#### **Assembly and Annual Meeting**

(Geneva, September 20 and 21, 1982)

The International Association for the Advancement or Teaching and Research in Intellectual Property (ATRIP) held its annual meeting and the second session of its Assembly in Geneva, at the headquarters of WIPO, in September 1982. WIPO provided conference facilities and some financial support, including the travel expenses of some members from developing countries. Sixty-two professors and researchers (including three officials of WIPO), members of ATRIP, from 20 countries, participated in the meeting. WIPO was represented as observer by Mr. Roger Harben, Director, Public Information Division.

The Assembly of ATRIP noted with approval reports on the activities and accounts of the Association, and expressed its satisfaction that the membership had increased from 69 in July 1981 to 187 (from 39 countries, including 17 developing countries) in September 1982. The Assembly also approved proposals by the Executive Committee for the program

of activities and the budget for 1983. Those proposals dealt, *inter alia*, with the preparation of a resolution on the role of teaching and research in intellectual property and the establishment of working committees on the exchange of professors, fellowships and orientation programs, and on the problems of the protection and exploitation of the results of academic research.

In working sessions and workshops, under the chairmanship of different members, the meeting examined recent developments and perspectives of teaching intellectual property law in developing countries and heard reports on the influence of teaching and research on the development of intellectual property law and on recent developments in certain subjects including patents and the transfer of technology, copyright and neighboring rights.

The Executive Committee agreed to hold the 1983 annual meeting in Munich.

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

#### **XXXIII<sup>rd</sup> Congress**

(Rome, October 3 to 8, 1982)

At the invitation of the Italian Society of Authors and Publishers (SIAE), the International Confederation of Societies of Authors and Composers (CISAC) held its XXXIII<sup>rd</sup> Congress in Rome from October 3 to 8, 1982. The Congress was also the occasion for the SIAE to celebrate the hundredth anniversary of its foundation.

The opening meeting was held in the presence of His Excellency Sandro Pertini, President of the Italian Republic, Mr. Nicola Signorello, Minister for Tourism and Entertainment, representing the Italian Government, and of various high-ranking Italian personalities.

This Congress, which was presided over by Mr. Karol Malcuzyński, of Poland, was particularly well attended. It included delegations from CISAC-affiliated societies of authors from the following 45 States: Algeria, Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Cameroon, Canada, Chile, Colombia, Czechoslovakia, Denmark, Egypt, Finland, France, German Democratic Republic, Germany (Federal Republic of), Greece, Holy See, Hungary, Iceland, India, Israel, Italy, Ivory Coast, Japan, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Senegal, South Africa, Soviet Union, Spain, Sweden, Switzerland, Tunisia, United Kingdom (including the territory of Hong Kong), United States of America, Venezuela, Yugoslavia. A delegation from the Confederation of Writers and Artists of the Chinese People's Republic was also present in an observer capacity.

WIPO had been invited to attend as an observer, and was represented by Mr. Claude Masouyé, Director, Public Information and Copyright Department. Unesco and the Council of Europe and a number of international non-governmental organizations had also delegated observers.

Apart from a certain number of administrative or purely internal matters, and a report on the activities of CISAC since the previous Congress, which was held in Senegal in 1980, the agenda of the debates included three main subjects:

- "The Role of Authors' Societies in the Field of Culture and Limits to their Action" (reports by Mr. Eduardo De Filippo, Senator of the Italian Republic, and Mr. Konstantin M. Dolgov, President of the All-Union Copyright Agency (VAAP) of the Soviet Union);
- "The Price of Copyright" (report by Mr. Jean-Loup Tournier, Director General of SACEM, France);
- "Authors and their Societies" (report by Mr. Hal David, President of ASCAP, United States of America).

In addition the Congress heard two communications: one on "the role of broadcasting organizations in the administration of copyright in relation to cable distribution," presented by Mr. Ulrich Uchtenhagen, Director General of SUISA (Switzerland), and the other on "the copyright problems of the renting of commercial phonograms to the public," presented by Mr. Yasushi Akutagawa, President of JASRAC (Japan).

The various reports gave rise to interesting discussions, at the end of which the Congress approved a certain number of concerted opinions. These will be

made into official resolutions, the text of which will be drawn up later by the Executive Bureau.

On the subject of "the Price of Copyright," the Congress noted that the interests of intellectual creators were frequently prejudiced by a widespread lack of information imparted to the public, the mass media and governmental authorities on the economic and social circumstances of authors throughout the world. It also noted that the first statistics showed that only a very small percentage (about 4%) of authors and composers of music received remuneration by way of copyright that was equal to the salary, for instance in France, of an unskilled worker. The information was of limited scope however, as the surveys and statistics were in need of completion. In that connection the Congress expressed pleasure at the decision taken by the Director General of WIPO to have a study made on the economic circumstances of authors in modern society, and CISAC declared itself willing to cooperate closely with WIPO in that venture.

With regard to the problems raised by cable television, the Congress spoke out against any reasoning that had the effect of declaring or presuming diffusion services to be transferees of copyright. It also spoke out against the argument that the legal security demanded by diffusion services could not be won otherwise than through legal or compulsory licensing. As for the situation currently prevailing in Austria in that connection, the Congress regretted the recent arbitration decisions that had granted authors remuneration that was manifestly out of all proportion to the turnover of the cable distribution firms.

With regard to the hiring of phonograms and videograms or any other comparable form of lending, which was widespread in a great many countries, the Congress expressed the emphatic wish that national laws might be enacted to grant authors an exclusive right of hire that would enable them to have better control over the use of their works and to reduce, if not eliminate, the harm caused them by such activities of essentially commercial character.

The Congress also registered its approval of the activities of the International Councils of Authors during the past two-year period.

Finally, the Congress renewed the Administrative Council and Executive Bureau of CISAC for the forthcoming 1982-1984 period of activity. In addition, it elected the Italian composer Roman Vlad and the Senegalese writer Birago Diop President and Vice-President of CISAC respectively. Mr. Jean-Loup Tournier (France) and Mr. Mihály Ficsor (Hungary) were elected Chairman and Vice-Chairman respectively of the Executive Bureau. The next CISAC Congress will be held in 1984 at a date and place that will be specified later.

## Book Reviews

**Pneumatiki Idioktesia** [Law of Copyright], by *Georges A. Koumantos*. One volume of 529 pages. Third Edition. Ant. N. Sakkoulas, Athens, 1982.

The appearance of the first edition of this work in 1967 was drawn to the attention of our readers at that time. Since then, the study has already been updated once in 1977.

This present third edition takes into account recent developments in the fields of copyright and neighboring rights. Thus, the author deals, for example, with the influence of the law of the European Economic Community, and also with the neighboring rights, and more particularly with the protection of performers in Greece under Law No. 1075 of 1980.

As in the preceding editions, a number of pages are devoted to international conventions, especially the Berne Convention. The importance of this latter Convention is to be emphasized in the case of Greece, since Law No. 4264 of 1962 enables Greek nationals to claim the application of the Convention where its provisions are more favorable to them than those of the national legislation.

The annex contains, *inter alia*, a Greek translation of the two major multilateral copyright conventions (Berne Convention, Universal Copyright Convention) together with a very considerable bibliography.

A table of contents, with a brief summary in French, makes the most essential part of the contents of this work available to those who are not able to read it in the original. M.S.

**Copyright Revision Studies.** Consumer and Corporate Affairs, Canada, Ottawa, 1982.

Another study has been added to the series published by the Department of Consumer and Corporate Affairs of Canada,\* which was initiated to provide a better understanding of some important problems and issues involved in the revision of the Canadian Copyright Act. It has been written by Jim Keon and published under the title *Audio and Video Home Taping: Impact on Copyright Payments*. Its major findings and conclusions are briefly summarized below.

The author of the study analyzes audio and video home taping separately, while the conclusion reached is common to both categories.

According to the survey made, approximately half the households in Canada own some form of tape recording equipment. The author considers that the analysis of the survey results does indicate that home taping may reduce sales by a small degree. The latest figures for 1980 do, however, show a decline in sales of pre-recorded material while the growth in home taping continued impressively. The author's general conclusion is that audio home taping has had some small effect on the sale of pre-recorded records and tapes.

As for the home recording of television programs, it is held that time-shifting constitutes much of the taping that is done. Surveys have shown that total television viewing has increased, while commercial messages are, in some cases, being deleted. According to the author, however, the evidence shows that revenues from both increased television viewing time and sales of pre-recorded cassettes outweigh any negative impact to copyright holders resulting from commercial deletion and advertising revenue loss.

When discussing the proposed home taping compensation alternatives, the author expresses the opinion that there would be many unavoidable inequities arising from any levy system, as blank tapes are used for many purposes in addition to taping copyright material. Moreover, such a system would require that payments be made to Canadians and non-Canadians alike, due to Canada's international copyright obligations. As, however, the major trading partners of Canada in this field (the United Kingdom, the United States of America, France) do not have home taping compensation schemes for copyright holders, the majority of the funds generated by such a scheme would go to fund foreign artists, composers and companies.

The author concludes that it would be premature to introduce a copyright compensation scheme to reimburse copyright owners for the home taping of their works. He believes that the most equitable and legally pure solution would be immediately to legitimize home taping activity. Furthermore, the Act should clearly state that payments, in the form of a levy on blank tapes, for the activities that fall within this exemption may be introduced. Such a levy should be introduced only when the reduction in Canadian copyright owners' revenues outweighs the costs and problems associated with the collection and distribution of funds from such a scheme.

**Review of Audiovisual Copyright Law.** Issues paper. Attorney-General's Department. A volume of 145 pages. Australian Government Publishing Service, Canberra, 1982.

This paper, published by the Attorney-General's Department of Australia, sets out issues raised in submissions to the current Review of Audiovisual Copyright Law. About 200 submissions were received from concerned individuals and from educational, library, manufacturing and copyright interests. The paper brings together all issues raised in submissions and summarizes the main arguments submitted for and against proposals for changes in the laws. It also includes background information on copyright law, with particular reference to audiovisual copying.

A glossary of statutory definitions and non-statutory terms used in the copyright field appears among the appendices.

The ultimate aim of the above-mentioned review is the preparation of recommendations to the Government on what amendments to the Copyright Act, if any, are desirable.

\* See *Copyright*, 1981, pp. 262, 300; 1982, p. 174.

## Calendar

### WIPO Meetings

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

#### 1983

- January 17 to 28 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Search Information**
- January 25 to 29 (New Delhi) — Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights**
- February 23 to 25 (Dakar) — Regional Committee of Experts on the Modalities of Implementation in Africa of the Model Provisions for National Laws on Intellectual Property Aspects of the Protection of Expressions of Folklore (convened jointly with Unesco)**
- March 16 to 18 (Geneva) — WIPO Worldwide Forum on the Piracy of Broadcasts and of the Printed Word**
- April 18 to 23 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on General Information**
- April 25 to 29 (Geneva) — International Patent Cooperation (PCT) Union — Committee for Administrative and Legal Matters**
- May 2 to 6 (Geneva) — Committee of Experts Concerning Joint Inventive Activity**
- May 26 to June 3 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Special Questions and Working Group on Planning**
- June 6 to 10 (Geneva) — Expert Group on the Legal Protection of Computer Software**
- June 6 to 17 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Search Information**
- June 20 to 24 (Geneva) — Permanent Committee on Patent Information (PCPI) — Ad Hoc Working Group on the Revision of the Guide to the IPC**
- July 4 to 8 (Geneva) — Joint Unesco-WIPO Consultative Committee on the Access by Developing Countries to Works Protected by Copyright (convened jointly with Unesco)**
- September 12 to 16 (Geneva) — International Patent Classification (IPC) Union — Committee of Experts**
- September 14 to 16 (Paris) — Forum of International Non-Governmental Organizations on Double Taxation of Copyright Royalties (convened jointly with Unesco)**
- September 19 to 23 (Geneva) — Permanent Committee on Patent Information (PCPI) and PCT Committee for Technical Cooperation (PCT/CTC)**
- September 26 (Geneva) — Paris Union — Celebration of the Centenary of the Paris Convention for the Protection of Industrial Property**
- September 26 to October 4 (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)**
- October 12 to 14 (Geneva, ILO Headquarters) — Rome Convention — Intergovernmental Committee (convened jointly with ILO and Unesco)**
- October 17 to 21 (Geneva) — Committee of Governmental Experts on Model Statutes for Institutions Administering Authors' Rights in Developing Countries (convened jointly with Unesco)**
- November 21 to 25 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on General Information**
- November 28 to December 2 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Special Questions and Working Group on Planning**
- December 8 to 16 (Paris) — Berne Union — Executive Committee — Extraordinary Session (sitting together, for the discussion of certain items, with the Intergovernmental Committee of the Universal Copyright Convention)**

## **UPOV Meetings**

**1983**

**April 26 and 27 (Geneva) — Administrative and Legal Committee**

**April 28 (Geneva) — Consultative Committee**

**May 30 to June 2 (Saragossa) — Subgroup and Technical Working Party for Vegetables**

**June 7 to 10 (Tystofte, Skaelskør) — Subgroups and Technical Working Party for Agricultural Crops**

**September 20 to 23 (Rome or Santa Cruz, Tenerife) — Subgroup and Technical Working Party for Fruit Crops**

**September 27 to 29 (Conthey or Wädenswil) — Technical Working Party for Ornamental Plants and Forest Trees**

**October 3 and 4 (Geneva) — Technical Committee**

**October 11 (Geneva) — Consultative Committee**

**October 12 to 14 (Geneva) — Council**

**November 7 and 8 (Geneva) — Administrative and Legal Committee**

**November 9 and 10 (Geneva) — Hearing of International Non-Governmental Organizations**

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

**1983**

### **Non-Governmental Organizations**

**Council of the Professional Photographers of Europe (EUROPHOT)**

Congress — October 6 to 13 (Munich)

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

Legal and Legislation Committee — May 1 to 4 (Washington)

**International Federation of Musicians (FIM)**

Executive Committee — June 27 to 30 (Amsterdam)

Congress — September 19 to 23 (Budapest)

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

Congress — April 13 to 20 (Athens)

**Union of National Radio and Television Organizations of Africa (URTNA)**

General Assembly — January 23 to 25 (Algiers)