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Contents

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World Intellectual Property Organization

WIPO International Forum on the Collective Administration of Copyrights and Neighboring Rights

(Geneva, May 12 to 14, 1986)

NOTE

The WIPO International Forum on the Collective Administration of Copyrights and Neighboring Rights was held at the headquarters of WIPO in Geneva from May 12 to 14, 1986.

The 160 participants were guest speakers, delegates of States and representatives of intergovernmental organizations, international non-governmental organizations and interested private circles, and also members of the public.

The discussions, which lasted for the full three days allotted, were presided over by Dr. Arpad Bogsch, Director General of WIPO.

The discussions were based on the presentations of 21 invited experts coming from developing and developed countries, both market economy and socialist, and were concentrated on the following main questions which were examined from the viewpoint of the interests of the general public, the right holders and the commercial users:

— In what cases is collective administration preferable to individual agreeement between the right holder and the prospective user?

— What are the types of work and types of use for the administration of which right holders and/or commercial users should be represented by an association or other entity? Should there be different associations or other entities for the administration of different rights? Should there be several associations for the administration of the same rights?

— How can "blanket" licensing and equitable distribution of royalties (to all those whose works or performances are commercially used) be ensured where not all the commercial users and not all the right holders have given power to the associations or other entities to represent them?

— What supervision, if any, should governments exercise over associations or other entities, particularly if they are in a near-monopolistic position and if they "represent" also persons from whom they have not received the power of representation?

— On what principles should the distribution of moneys received by an association or other entity representing right holders be based? Should an association or other entity be allowed to give some of the money collected under copyright and neighboring rights laws to entities or persons other than those persons whose works or performances have "earned" the money?

— Should it be permissible to give less money to a right holder who is a foreigner than to a right holder who is a national where the extent of the use is the same?

The Forum provided an opportunity for the participants to hear and discuss presentations of high quality and considerable interest. It was useful for identifying the area in which collective administration is necessary and also certain basic principles whose application is indispensable for the proper functioning of any collective system.

A list of the participants in the Forum is given below.

A brochure containing the texts of the various papers presented will be compiled by the International Bureau of WIPO and published in due course.

At the close of their discussions, the participants unanimously adopted the declaration reproduced below.

Declaration

adopted by the participants in the Forum

The participants in the WIPO International Forum on the Collective Administration of Copyrights and Neighboring Rights, organized by the World Intellectual Property Organization (WIPO) and held at the headquarters of that Organization at Geneva from May 12 to 14, 1986,

Express the view that the Forum was very useful since it allowed, thanks to the exchange of information and discussion that took place between the participants, particularly the representatives of governments, intergovernmental and non-governmental organizations, and among the latter, the leading federations and other organizations representing authors, performers, publishers, film makers, television and radio broadcasters and phonogram producers:

(i) identification of the kinds of works, performances, etc., and the kinds of uses of such works, performances, etc., concerning which the collection of license fees paid by users and the distribution of the collected license fees among those entitled to them is taking place or should take place through collective administration;

(ii) arriving at a better awareness of possible improvements in the national legislations and in the practices of the collection and distribution of license fees — including improvements in the establishment of proof of ownership and enforcement of copyrights and neighboring rights — whether based on legislative provisions, contractual arrangements or custom;

(iii) full realization that the governments and the public require continuing and constant information about the fact that remunerating authors and holders of neighboring rights is a matter of justice and is in the public interest and about the fact that the collective administration of authors' rights and of neighboring rights renders great services — if it is not, in certain circumstances, outright indispensable — to both the right holders and the users;

Express the view that the establishment of collective administration systems should be encouraged wherever individual licensing is not practicable and as a preferable alternative to non-voluntary licenses, even where such licenses could be admitted under the Berne Convention for the Protection of Literary and Artistic Works and the Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations;

Would welcome it if WIPO were to continue to make governments and the concerned interested circles increasingly aware of the importance of appropriate systems of collective administration of copyrights and neighboring rights and were to stimulate further international discussion in this field;

Consider it desirable that WIPO

— collect, study and make available to governments and the concerned interested circles information on legal provisions, contractual solutions, statistical survey methods and results, and other factual data concerning the collection and distribution of royalties and other fees, as well as on methods of effective enforcement and certain other elements of collective administration systems, particularly information and data on the impact of new technologies on the enforceability of copyrights and neighboring rights;

— continue to pay particular attention to rendering assistance in the setting up or strengthening of collective administration systems in developing countries.

List of Participants

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National Legislation

ITALY

Law No. 400

Provisions Concerning the Unlawful Duplication, Reproduction, Import, Distribution and Sale, Public Showing and Transmission of Cinematographic Works

(of July 20, 1985)*

Article 1. Any person who, with gainful intent, unlawfully duplicates or reproduces, by whatever means, cinematographic works intended for the cinema or television network, or, even without having recourse to duplication or reproduction processes, places on the market, holds for sale, brings into the territory of the State for profit-making purposes, publicly shows or broadcasts on television such duplicates or reproductions, shall be punished by imprisonment for between three months and three years and by a fine of between 500,000 and 6,000,000 lire.

The penalty shall not be less than a minimum of six months, and the fine not less than one million lire if the offense is of sufficient gravity.

Article 2. The sentence for the offenses contemplated in the foregoing Article shall include publication of the judgment in one or more daily newspapers and in one or more specialized periodicals.

* Published in the *Gazzetta Ufficiale*, No. 187, of August 9, 1985. — WIPO translation.
Entry into force: August 24, 1985.

The Berne Convention and National Laws

The Development of Law in the Field of Copyright as a Result of the Interaction of the Berne Convention and French Legislation

André FRANÇON*

To talk of interaction between French domestic legislation on copyright and the Berne Convention is a fairly hazardous undertaking. The adoption of a provision, be it in a national law or an international convention, is generally motivated on a number of grounds and not just by one reason. It would therefore seem somewhat arbitrary at first view to state that a given provision in French law derives from a given provision in the Berne Convention or that a clause in the Convention owes its origin to such a clause in French law. This kind of statement is all

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the more tenuous when one considers that, as a rule, a fairly long period of time has elapsed between the revisions of French copyright law and those of the Convention, thus making any idea of reciprocal influence rather fragile.

Indeed, in the case of France, anyone seeking evidence of such interaction will be faced with a specific problem: in this country, the source of substantive law in respect of copyright was long constituted more by the court decisions than by the statutes, since the legislative texts in force basically went back to the time of the French Revolution and could obviously not have foreseen subsequent technical developments. It is true, of course, that this situation came to an end with the adoption of the Law of March 11, 1957. However, since this article is to he a historical study, it must take into account not only the attitude taken by the French lawmaker since 1957, hut also that of the French judge prior to 1957.

Having entered these reservations, one may nevertheless endeavor to identify in turn the influence of French law on the Berne Convention (part I), and then the influence of the Berne Convention on French law (part II). These two aspects need to be looked at in that order for the reason that French law is older than that of the Convention, and also because it would seem, chronologically, that the influence of French law on the Convention is more of an early phenomenon, and the influence of the Convention on French law more of a recent phenomenon. The reason for this second aspect is perhaps the fact that the greater the number of provisions contained in the law of the Convention, the more they affect the national laws of the Union countries required to respect those provisions.

I. The Influence of French Law on the Berne Convention

The essential matter treated here will, of course, be the influence that French *law* may have had on the Berne Convention. However, the French author of this article may be excused if he first points out that the French *language* itself played an important part in the Berne Convention. In that respect, the 1948 Brussels Conference represented the culmination with the incorporation in the Convention of a new Article 31. This Article stipulated that the official Acts of the Convention would be established in French and that an equivalent text would be established in English, but in the case of differences of opinion on the interpretation of the Acts, the French text would always prevail. The 1971 Paris Act returned to this matter in Article 37. It makes allowance for the use of the English language by stipulating in paragraph (1)*(a)*: "This Act shall be signed in a single copy in the French and English languages" but nevertheless maintains the precedence given to French since paragraph (1)*(c)* lays down: "In case of differences of opinion on the interpretation of the various texts, the French text shall prevail."

However, rather than this problem of language which still leads to impassioned debates, the concern here is to examine the content of the Convention's provisions to ascertain whether and to what extent they have been influenced hy French law.

This influence was indeed felt, it would seem, at the very inception of the Convention as the result of the important part played hy the International Literary and Artistic Association, founded in 1878, whose first honorary president was the great French writer Victor Hugo.

A. If we look at the subsequent history of the Convention, we will see a number of fields in which the solutions taken from French law would seem to have played some part in the adoption of the provisions of the Convention.

An example of that influence, that we may cite, is the guarantee given to authors of the principle of protection for their economic rights for the whole duration of their lives plus 50 years after their death. This ruling had already been adopted in France under the Law of July 14, 1866. It was finally taken up by the Convention as *jus conventionis* in Article 7 of the 1948 Brussels Act, after unsuccessful attempts had already been made to incorporate this solution at the preceding revision conferences in Berlin (1908) and Rome (1928).

Mention may also be made of the field of broadcasting. Prior to 1948, French case law had already recognized the authors' exclusive right of hroadcasting their works and this did not remain without influence on the Brussels Conference, even if the latter, after having recognized this right in Article 11^{bis} of the Convention, made it possible for the Union countries to substitute a statutory license for the exclusive right in their national laws.

The Convention also took into account French law when, in Stockholm, in 1967, it afforded a complicated status to cinematographic works in order to make it easier for film producers to exploit the films that they financed. So as not to have to decide between the Anglo–American concept of film copyright favorable to the producers, and the French concept which afforded rights in films to the authors, the Conference at Stockholm cautiously stated in Article $14^{bis}(2)(a)$ of the Convention:

> Ownership of copyright in a cinematographic work shall be a matter for legislation in the country where protection is claimed.

In those few cases I have just referred to, French law has certainly had an influence on the Convention. However, truth is to say that this influence has

been exerted jointly with the laws of other Union countries. On the other hand, the example of French law has doubtlessly played a more decisive role in the history of the Convention in those cases that we shall now look at.

B. This factor would seem quite clear in respect of the *droit de suite*. This right first arose in France pursuant to a Law of June 15, 1920, before its subsequent adoption in a number of other countries. The Berne Convention Revision Conference held in Rome in 1928 expressed the wish that

> ...those countries that have not yet adopted statutory provisions affording to artists an inalienable right to participate in the proceeds from the successive sales of their original works should entertain the possibility of examining such provisions.

At the 1948 Brussels Conference, a new Article 14bis was incorporated in the Convention, thus introducing the *droit de suite*. However, the success of the French arguments remained somewhat limited in this case since recognition of the *droit de suite* does not go so far as to make it a rule of conventional law, since paragraph (2) of the text limits itself to the principle of assimilation which it even accompanies by a condition of reciprocity.

The influence of French concepts also made itself felt to a considerable degree in the Berne Convention in respect of *moral rights*. Although, in France, it was not until the 1957 Law that a statute laid down the existence of moral rights, the French courts had previously constructed by means of their decisions a whole edifice of moral rights. The 1957 Law in fact simply reinforced that edifice. That is why France vigorously applauded the progress made by the Berne Convention towards recognition of moral rights, firstly at Rome in 1928, then at Brussels in 1948 and finally at Stockholm in 1967. It is of course true that Article 6bis of the Convention, in which this topic is anchored, remains very modest when compared with the corresponding provisions in French law. However, this is due to the fact that various of the Union countries, particularly the common law countries, are not traditionally favorable to moral rights, thus explaining why these rights have obtained but limited recognition in the Convention.

A further point on which French law has exerted undeniable influence on the Convention is that of the status of *works of art applied* to industry. In France, there exists a well-known theory of unity of art, according to which copyright protection can be afforded equally to creations of art applied to industry and creations of pure art. This theory has been accepted in France since the Law of March 11, 1902, which added a paragraph to Article 2 of the Law of 1793, according to which:

> ...the same rights [as those afforded to authors of other kinds of works] shall belong to ornamental sculptors and draughtsmen, whatever the merits and purpose of their works.

France would have liked to have seen the same concept adopted by the Berne Convention. However, it did not achieve this aim inasmuch as the rule of unity of art was not adopted as an element of the *jus conventionis*. However, the fact that the theory of the unity of art existed in France has nevertheless influenced the solutions adopted by the Convention in respect of works of applied art. Let us look at these solutions and at their background.

Admittedly, as of the 1908 Berlin Conference, the Convention refers to works of applied art in the list of those works which it protects. However, account had to be taken of the fact that a number of the Union countries did not accept the theory of unity of art. This explains why the fourth paragraph of Article 2 of the Berlin Act stipulated that:

> Works of art applied to industrial purposes shall be protected so far as the domestic legislation of each country allows.

This formulation meant that the copyright protection of designs was not a rule of Convention law, but was simply subject to the principle of assimilation.

This solution was highly unfavorable to France since, as a result, France was obliged by the principle of assimilation to afford copyright protection to creators of designs from Union countries despite the fact that French creators were excluded from protection for their designs in the countries of the first-mentioned creators. This explains why, when ratifying the Berlin Act revising the Convention (and also when ratifying the Rome Act that maintained the status quo as regards designs), France entered a reservation in respect of this fourth paragraph of Article 2.

At the 1948 Brussels Revision Conference, efforts were again made, particularly by France, to correct this lack of equality in treatment. The outcome was the adoption of a new paragraph (5) in Article 2 of the Convention. According to that text:

> It shall be a matter for legislation in the countries of the Union to determine the extent of the application of their laws to works of applied art and industrial designs and models... Works protected in the country of origin solely as designs and models shall be entitled in other countries of the Union only to such protection as is granted to designs and models in such countries.

This represents, as far as designs are concerned, a considerable dilution of the principle of assimilation to nationals. Where a design is protected only by a specific law in its country of origin, France may, for example, despite the theory of unity of art, accept to protect that design only under the 1909 Law on Designs and not the 1957 Copyright Law.

The 1967 Stockholm Conference, the outcome of which was repeated in the 1971 Paris Act, made no drastic changes to the system deriving from the Brussels Act. It simply tempered a little the severity shown by the system for creators from Union countries. The aim was to allow for the fact that not all the Union countries had adopted a specific designs law. Consequently, the Conference added to the end of the previous text (that became Article 2(7) in the new Act) the following sentence:

> ...; however, if no such special protection is granted in that country [i.e. the country in which protection is claimed], such works shall be protected as artistic works.

A situation was thus avoided in which works of applied art would be deprived of all protection in the country in which protection was claimed, where the latter had no specific designs law. To a certain extent, this means that the unequal treatment that the Brussels Act was intended to suppress now reappears. However, at Stockholm, France did not oppose the reform, which did not in fact concern it, since French law comprises a specific designs statute.

On analyzing the developments described above, it will be seen that the influence of French law on the Berne Convention, although undeniable, has remained somewhat limited. Is the opposite also true? We shall now therefore look at the influence which the Convention has had on French law.

II. The Influence of the Berne Convention on French Copyright Legislation

One may consider, in this respect, that since the signing of the Convention in 1886 there have been practically only two important French laws concerning copyright, that is to say the Law of March 11, 1957, and that of July 3, 1985. Have these laws been influenced by the Berne Convention or not?

A. When the *Law of March 11, 1957*, on Literary and Artistic Property was adopted, the most recent version of the Berne Convention was that adopted in Brussels in 1948. Can it be claimed that the Brussels Act has left its mark on the drafting of the 1957 Law?

Basically, such influence would seem to have been limited. France has indeed been a party to the Convention since 1886, that is to say a long time before the 1957 Law, and the courts had made sure that the solutions they derived from the old statutory texts were in harmony with the Convention. The first purpose of the 1957 Law was to legalize those solutions that had already been devised by the courts. The influence exerted by the Berne Convention therefore seems to be an indirect influence only.

Indeed, the legal writers commenting on the 1957 Law drew attention not to the wording of the Convention that had been literally incorporated in the French Law, but to a number of differences between the Law and the Convention and asked the question whether, therefore, France should not be considered as having taken certain liberties with its international commitments. It was noted, for instance, that Article 2(1) of the Convention protected all photographic works by means of copyright, whereas Article 3 of the 1957 Law employed a differing formulation which afforded literary property to photographic works of an artistic or documentary character. Likewise, Article 2(3) of the Brussels Act protected encyclopedias and anthologies which, "...by reason of the selection *and* ("*ou*" in the French text) arrangement of their contents, constitute intellectual creations," whereas Article 4 of the 1957 Law appeared more restrictive since it protected only authors of anthologies or collections of various works which, by reason of their selection *and* arrangement of their contents, constitute intellectual creations.

Additionally, in the field of broadcasting, Article 11bis(3) of the Brussels Act first stipulated the independence of the right of reproduction in relation to the right of broadcasting and then introduced a derogation to that rule in respect of ephemeral recordings. The text laid down that:

> Except where otherwise provided, permission granted in accordance with paragraph (1) of this Article [i.e. the permission to broadcast] shall not imply permission to record the radio-diffused work, by means of instruments recording sounds or images. It shall, however, be a matter for legislation in the countries of the Union to determine the regulations for ephemeral recordings made by a broadcasting body by means of its own facilities and used for its own emissions. The preservation of these recordings in official archives may, on the ground of their exceptional documentary character, be authorized by such legislation.

The French Law of 1957 contained a third paragraph in its Article 45 that departed doubly from the wording of the Convention. Firstly, for recordings made without the consent of the author to be considered lawful, it was not necessary for them to be ephemeral since that adjective was not employed in Article 45. Secondly, despite the fact that the Convention did not provide for remuneration to be paid to the author in return for the ephemeral recordings, the third paragraph of Article 45 would seem to provide for such remuneration since it stipulated that in the absence of an agreement between the parties the authorities would take action. However, in this case as in others, the Law of July 3, 1985, has made changes.

B. The *Law of July 3, 1985*, has certainly been influenced in a number of areas by the Berne Convention, particularly the version of that Convention

adopted in Paris in 1971 and which has been ratified by France.

(1) Firstly, some of the liberties taken with the Convention by the 1957 Law have been removed. This applies, for instance, to the protection of photographs since the new Law, in Article 1–II, deletes from Article 3 of the 1957 Law all reference to the artistic or documentary character of the protected photograph. Additionally, the revised Article 45 of the 1957 Law no longer contains an exception to the right of reproduction in respect of broadcasting (Article 12 of the new Law). Thus, the divergencies that existed prior to 1985 between the third paragraph of Article 45 of the French Law and Article 11bis(3) of the Convention have now disappeared.

(2) But, above all, it is important to underline the fact that certain new solutions have been adopted by the 1985 Law with reliance on the Berne Convention. This is what has frequently happened when it has been wished to regulate in that Law problems of copyright stemming from the emergence of new mediums.

(a) Mention may first be made, in this context, of the provisions of Title III of the Law (Articles 31 to 37) concerning "remuneration for private copying of phonograms and videograms."

Admittedly, this remuneration does not only concern copyright since it is afforded not only to the authors but also to performers and phonogram and videogram producers. On the other hand, it is true that, from the point of view of international copyright, it may be claimed that this rule also takes into account the limits within which exceptions to the right of reproduction are enclosed by Article IV*bis*(2) of the Universal Copyright Convention to which France is a party. However, the fact is that, in the draft law which was submitted to the National Assembly and which eventually became the Law of July 3, 1985,[1] these rules on private copying were linked to the Berne Convention. We may read in the document concerned, in respect of the right to remuneration proposed for incorporation:

> This right is in conformity with Article 9 of the Berne Convention for the Protection of Literary and Artistic Works, which lays down that "it shall be a matter for legislation in the countries of the Union to permit the reproduction of such works in certain special cases, provided that such reproduction does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author."

Precisely this situation existed in the proliferation of private copying, both audio and video, conflicting with normal exploitation of work and unreasonably prejudicing the legitimate interests of authors since, at least in practice, private copying was free and gratuitous in France. Since the application of the exclusive right would seem impracticable in the case in point, the 1985 Law has preferred to establish nonvoluntary licensing arrangements. In so doing, it complies with the spirit, if not with the letter (which remains vague), of Article 9 of the Berne Convention.

(b) The influence of the Berne Convention was also felt in the 1985 Law where the French lawmaker has attempted to regulate by means of a text the problem of the *cable distribution* of works of the mind. In this respect, the new Law stipulates (Article 12 amending Article 45 of the 1957 Law):

> Unless otherwise stipulated:
> (i) authorization to telediffuse a work hy electromagnetic waves shall not include cable distribution of such telediffusion unless made simultaneously and integrally by the organization holding the authorization and without extension of the contractually stipulated geographical area.

In this case, the link with the Berne Convention is very clear. The French wording is based on Article 11bis(1)(ii) of the Convention according to which authors

> ... shall enjoy the exclusive right of authorizing ... any communication to the public by wire or by rebroadcasting of the broadcast of the work, when this communication is made by an organization other than the original one.

The reference made by the Convention to wire indeed suggests that it is cable distribution that is intended. The Convention thus considers that cable distribution is subject to the right of broadcasting. Exceptions to this ruling are tolerated only where the cable distribution is carried out by the same organization that has negotiated the authorization to broadcast with the author. Once an authorization to broadcast has been obtained, it may be held to comprise the authorization to relay by cable.

It is interesting to note that the draft French law had envisaged extending the scope of the exception made to the exclusive right to cover certain additional organizations in those cases where they could be deemed, under certain conditions, to represent the original organization (see Article 11 of the draft). The National Assembly accepted this point of view, although it somewhat restricted its scope by adopting the concept of a limited mandate.[2] However, the Senate held these solutions to be contrary to Article 11bis(1)(ii) of the Berne Convention and consequently rejected them. It exempted cable diffusion from the right of performance only where the operation was carried out by the original organization.[3] Both assemblies subsequently maintained

[1] See National Assembly, 2nd session 1983–1984, document No. 2169, p. 8.

[2] See debates of the National Assembly, 2nd sitting of June 28, 1984, p. 3853.

[3] See Jolibois report, Senate, parliamentary discussions, 2nd session 1984–1985, No. 212, Vol. 2, pp. 51 *et seq.*; Senate, parliamentary discussions, sitting of April 3, 1985, p. 111.

their initial stances throughout the debates in Parliament and the final decision was therefore taken by the Joint Committee. Its decision went in favor of the solution adopted by the Senate, that is to say the solution closest to the Berne Convention.

(c) A final area in which the Berne Convention exerted its influence on the 1985 Law is that of *software* protection. Once it had been decided, not without heated debates, that computer programs should be protected by copyright, the question arose of the term that was to be applied to such protection. The National Assembly recommended a term of 50 years as from the creation of the software. The Senate considered this period to be too long and expressed a preference for a 25–year term, still with the same point of departure.

Both assemblies relied on the Berne Convention, that is to say its Article 7 dealing with terms of protection. The National Assembly argued that the text required copyright protection to last, in principle, for 50 years, whereas the Senate based itself on the special solution in paragraph (4) permitting protection to be reduced to 25 years in the case of works of applied art. It is the latter term that was finally adopted by the Joint Committee, to begin with, and then by the Parliament (see Article 48 of the Law). The view that a computer program may constitute a work of applied art will not be shared by everyone. However, the debates at least demonstrate the commendable efforts made by the Parliament to link the solutions adopted under the new French Law to the Berne Convention.

To conclude, it may well be claimed that there has been an interplay between French law and the Berne Convention. However, whereas the influence of French law on the Convention has been gradual and has remained limited, the influence of the Convention on French law has been faster and stronger. This is explained by the fact that France, as all the other Union countries, is obliged to respect the rules of the *jus conventionis* established by the Convention. Admittedly, the Convention only comprises obligation to act in that way in respect of foreigners to whom the Convention applies and not in respect of a country's own nationals. However, the French lawmaker justifiably considers that he will become most unpopular with his fellow citizens if he treats certain foreign authors better than he treats his own authors. He therefore prefers to incorporate the rules of the Convention into the domestic legislation. Thus, not only the Union authors benefit, but also French authors. At the same time, the tenor of French law moves towards that of the Convention and the latter thereby assumes a unifying role. We can but welcome such a development, even if national particularities continue for the time being to occupy a rather important place.

(WIPO translation)

The Hundredth Anniversary of the Berne Convention: the Development of Law in the Copyright Field Through the Interaction of the Convention and Swiss Legislation

Aloïs TROLLER*

I. Copyright and the Swiss

The creators of literary and artistic works and copyright specialists are dismayed by the reluctance shown by a large section of the Swiss people and its representatives in accepting a copyright regime that protects authors fairly and efficiently. This lack of comprehension is to be found both among members of the councils that play the part of legislator and in the public that uses the works without paying the remuneration due to the author.[1] There is probably no area of civil law in which the notion of justice is so underdeveloped as in that of copyright. That comes as a surprise at first. Practically everybody makes daily use of literary and artistic works in one way or another, whether books, music or works of art. They have become a part of everyday life just like food and sleep. The great majority of "consumers" of literary and artistic works are in contact with these creations of the mind, but not with their authors. The creation of the work is not present in the mind of the reader or listener: there are intermediaries between the authors and the public (publishers, performers, etc.). It could be argued that the situation is the same for inventions and industrial designs, but there are striking differences.

Inventors or the creators of industrial designs are rewarded by the industry that manufactures the products or objects, and the industry in turn has its expenses refunded and its profits paid by purchasers. The problem of the remuneration payable for enjoyment being shared by an unlimited number of persons does not arise. In order to awaken or nurture the notion of justice, it is important to ask oneself what is owed to the inventor, or to the industry that has taken his place: there is an exchange of interests between creators and the users of their creations. The representatives of industry considering the text of a law on patents or industrial designs realize that they have an interest on the one hand in protecting the inventor, and on the other hand in facilitating the use of this work of the mind.

Authors, however, never benefit from having their rights limited, and users do not concern themselves with the possibility of finding themselves in the author's role. The situation is one–sided, as the interests of authors are contending with the interests of users and partly with those of the intermediaries, insofar as the latter do not have a share in the author's income.

Another obstacle to the understanding of copyright is the difficulty — indeed many consider it the impossibility — of capturing the substance of literary and artistic works, which are immaterial and capable of being made material by anyone in a number of different ways. Literary and artistic works are among the most widespread of man's creations. And yet no legislator has attempted to define them and no lawyer has presented a definition that has won unanimous acceptance from legal writers.[2]

It can therefore be said that, in spite of the omnipresence of literary and artistic works, the field of copyright has remained, as far as its legal structure and its role in the service of justice are concerned, difficult of access for all but a small circle of initiated people.

I should imagine that this state of affairs is to be found in the majority of countries and that it is not a Swiss speciality.

And yet it is the development of copyright in Switzerland that illustrates it particularly well. I shall come back to this when I show how Swiss legislation has shrunk from introducing a federal copyright law, and what daunting obstacles it has encountered in the past and still encounters today on the road towards ratification of the latest texts of the Berne Convention.

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[1] See G. Krüger–Nieland, *Der Urheberrechtsschutz im Spannungsfeld der Eigentumsgarantie der Verfassung* (Tribute to Walter Oppenhof on his 80th birthday, Munich, 1985): "The Federal Council put forward arguments inspired above all by tax and competition considerations." (p. 189); "That has the effect of establishing in the legal consciousness of the public the mistaken idea that, in the case of the reproduction for private use or other personal or internal purposes and also the public communication of works for non–profit–making purposes, those efforts that legislation considers to be ineligible for protection may be exploited without any economic return, and that undermines the principle of equity on which the protection of creative activity is based. The legal consciousness of the public has to be made aware, as a matter of urgency, of intellectual property's need for protection." (p. 190); "... that merely proves that, in other countries too, intellectual property protection can only establish itself with difficulty in the face of the powerful technical industry lobby." (p. 191).

[2] See I. Cherpillod, *L'objet du droit d'auteur*, Lausanne/Paris, 1985.

II. Switzerland's Contribution to the Establishment of the Berne Union and to the Drafting of the Text of the Convention

1. The protection of literary and artistic works in Switzerland prior to 1885

For a more ready understanding and assessment of the role played by the Swiss Federal Council among the founders of the Berne Convention, a brief mention should be made of the state of the protection of literary and artistic works in the decades prior to 1885.

Aloïs d'Orelli described it in his commentary on the Swiss Federal Law on the Copyright in Literary and Artistic Works (of April 23, 1883).[3]

His first sentence declares:

> The recognition of so-called intellectual property met with opposition and rejection in our Swiss cantons until very recently. It was wrongly looked upon as an infringement of the freedom of enterprise.[4]

At the time of the deliberations on the 1848 Constitution, the delegates of Geneva proposed conferring on the Federal Assembly the power to legislate on intellectual property. The proposal was rejected, even though the discussion had shown the advantages offered by the possibility of entering into treaties with neighboring countries. As France had on a number of occasions expressed the desire to enter into a treaty with Switzerland, the Federal Council proposed to the cantons that the protection of literary and artistic property be introduced by means of a concordat. In spite of the entry into force of that concordat, six cantons remained in which there was no legal protection for literary and artistic works.

In response to the pressure from France, Switzerland entered into a Convention (1864) whereby the French were granted protection for their literary and artistic works in Switzerland. French authors thus enjoyed in Switzerland protection that continued to be denied to Swiss authors. Treaties containing equivalent provisions were then concluded with other countries. The 1874 Constitution finally put an end to this deplorable situation, as its Article 64 gave the Confederation the power to legislate on literary and artistic property.

In its message of December 9, 1881,[5] the Federal Council acknowledged the reluctance of the people and their representatives to accept the protection of literary and artistic works. It justified the need for the law by saying that the present situation was a humiliating one, with foreign authors enjoying better protection in Switzerland than the Swiss themselves and Swiss courts having to apply foreign criminal laws. The message recognized that it was fair to grant to the author alone the right to reproduce his ideas in the form that he himself had given them. It followed that the right of reproduction constituted what had been called literary and artistic property. It sought to justify the sentiments opposed to the author's absolute control over his work by means of arguments which to this day have been put forward in support of exceptions to the author's freedom to dispose of his work as he sees fit that run counter to the fair and equitable remuneration due to him.[6]

The Law entered into force on January 1, 1884. The ground was thus prepared for Switzerland to play a part in the foundation of a literary and artistic convention whose sponsor was the International Literary and Artistic Association (ALAI).

2. The Role of the Federal Council

The ALAI decided at its 1882 Rome Congress that a conference would be convened in Berne in 1883 to establish the groundwork of a program on which a universal convention could be based.

The Berne Conference lasted from September 10 to 13, 1883. The draft that it voted on at its meeting on September 13 was in its view no more than a basis for discussion which it was proposing to the Federal Council for the purposes of the consideration of a draft convention to be submitted to a diplomatic conference for examination. The Federal Council accepted this task and announced the result of its investigation in a Note that it circulated "to the Governments of all civilized countries" on December 3, 1883. The Note provided the Convention with a sound basis, as it allied farsightedness regarding political options with prudent concentration on the principle of assimilation which has remained the central feature of the Convention ever since. Owing to its importance to the acceptance and growth and

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[3] A. d'Orelli, "Das schweizerische Bundesgesetz betreffend das Urheberrecht an Werken der Literatur und Kunst unter Berücksichtigung der bezüglichen Staatsverträge," Zurich, 1884, pp. 1 *et seq.*

[4] *Ibid.* (see note 3), p. 1.

[5] *Feuille fédérale*, 1881, Vol. IV, pp. 645 *et seq.*

[6] *Ibid.* (see note 5), p. 647: "There is a trend nowadays towards granting to the author and his successors in title, at the expense of society, the absolute and perpetual enjoyment of this Convention property. Is is not useful and indeed necessary that Switzerland, as far as it is itself concerned, should maintain those principles that it considers wise and reasonable, and that its legislation should declare that it will not allow clearly excessive legal concepts to be applied within the country? We believe that we shall have all the more strength to resist the trends that we mentioned if, in the negotiation of trade agreements or special conventions, we are able to rely on a Federal law than if all we can bring to bear against those trends is the provisions of a concordat that does not even bind all of Switzerland, and which moreover is no longer in keeping with our time."

the Convention, I record here the actual text of the message:

The Federal Council has not concealed from the initiators of this project that it foresaw difficulties in its immediate, full-scale realization; conventions recently concluded or in operation for a certain number of years are to a greater or lesser degree in contradiction to certain sections of the set of provisions constituting the draft, and one cannot expect those conventions to be easy to amend prior to their expiry ... On the other hand, it would certainly be of great benefit to achieve, at the outset, a general understanding by which that exalted and, as it were, natural principle according to which *the author of a literary or artistic work, irrespective of his nationality and of the place of reproduction, has to be protected on the same footing as the nationals of every country*, would be proclaimed. Once this fundamental principle, which does not conflict with any convention in existence, has been accepted, and once the general Union has been established on that basis, it is beyond doubt that, under the influence of the exchanges that would be initiated between the States of the Union, the more flagrant differences existing between national laws would disappear one after the other, to be replaced by a more uniform, and consequently more secure, regime for authors and their successors in title.

The Federal Council voiced its concerns by first noting the various countries' agreement in principle to the ALAI draft, and by adding:

... this general agreement thus creates broad foundations on which we now have to endeavor to build new walls. First, a study has to be made of the manner in which that can be done without dealing too painful a blow to the domestic legislation of individual States, or to existing international conventions.[7]

Aloïs d'Orelli, a distinguished Swiss specialist who took part in the discussions, laid stress on the fact that the variety of national legislation was a reflection of the national character of the various peoples, and that it was likely to develop still further.

As the time has not yet come to outline universal legislation, the program of the Federal Council, which already makes considerable progress possible, should be adhered to.[8]

The Conference took the modest and measured course of action indicated by the Federal Council, and succeded in drafting and adapting the text of the Convention in 11 days, which today is no longer conceivable.

I do not think it is too outspoken to claim that the climate in Switzerland, so unconducive as it was to the emergence of copyright, favored the foundation of the Union and of the Convention. It led the Federal Council to aim for a realistic objective, and to restrain the strivings of the idealists, bearing in mind the maxim "Grasp all, lose all." Aloïs d'Orelli reported on the joint efforts of the delegates and the Federal Council in the following terms:

There is reason to be pleased with the results achieved. The foundations of international codification have been laid. The success of the Conference is due above all to the preparatory work by the Swiss Federal Council, to the talent of Mr. N. Droz, who presided remarkably well over the deliberations, to the very penetrating proposals made by the German delegation and to the cordial understanding between it and the French delegates, who, in a manner that was as courteous as it was kind, resigned themselves on many subjects to adopting the German proposals.[9]

3. The Role of Federal Councillor Numa Droz

Any person who investigates the reasons for his success in life may and indeed must admit that, at some stage, a happy chance has presented itself to him and enabled him to succeed beyond his hopes.

Such a benevolent and welcome chance consisted, in 1884 and 1885, in the fact that Numa Droz was a member of the Federal Council. It could even be doubted that the Federal Council would have been given the mandate of writing the draft convention without the confidence inspired by the ability of Numa Droz.[10] He explained to the delegates the interpretation that the Federal Council had placed on that mandate:

Gentlemen, the Federal Council did not hesitate to accept this honorable mission. It seemed to it that here was a work of international justice to which Switzerland should not refuse its support, all the less so as our country has always set great store, under such circumstances, by acting as intermediary in all aspirations of this kind, and thereby playing a role, albeit modest, yet which we consider useful, in the concert of nations.[11]

Röthlisberger, evoking the merits of Numa Droz, testified to the importance of the activity of that distinguished statesman and lawyer:

The choice could not have been a happier one. Mr. Droz had amply proved, with the aid of his article on intellectual property, published in July 1882 in the review *Bibliothèque universelle et revue suisse*, and in his participation in the parliamentary work on the Swiss Federal Law mentioned earlier, that he had mastered and fully understood this whole field. It is to his energy and his understanding of this matter of current concern, to his tact and to his admirable ability to find the right wording, both clear and simple, even for the most complex points, that we must attribute, to a large degree, the success of the work on the Union. The addresses that he gave at the opening and closing of the various preparatory conferences are very models of their kind, imprinted with a profound understanding of the subject.[12]

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[7] Records of the International Conference for the Protection of Authors' Rights, convened in Berne from September 8 to 19, 1884 (Berne, 1884), p. 10.

[8] *Ibid.* (see note 7), p. 28.

[9] A. d'Orelli, "La Conférence internationale pour la protection des droits d'auteur, réunie à Berne, du 8 au 19 septembre 1884, in *Revue de droit international*, December 1, 1884, p. 14.

[10] E. Röthlisberger, "Die Berner Uebereinkunft zum Schutze von Werken der Literatur und Kunst und die Zusatzabkommen," Berne, 1906, pp. 9 *et seq.*: "The Swiss ambassador in Paris suggested to ALAI that it should approach the Federal Council."

[11] Records of the Conference (see note 7), p. 20.

[12] E. Röthlisberger (see note 11), p. 10.

III. Bureau of the International Union for the Protection of Literary and Artistic Works

When we speak of the Swiss contribution to the development of the Berne Convention, we cannot overlook the efficient role played by the Bureau of the Union. An entire article would be needed if one were to give a detailed account of its activities. Suffice it to say here that the Bureau was a quiet refuge in the midst of the impassioned discussions of representatives of the countries of the Union and interested circles. Those who had the good fortune to witness the tranquil atmosphere and the strictly scientific spirit that reigned in those modest premises in Berne will never forget that impression of devotion to the development of copyright and of the Convention that prevailed there. It is thanks to the existence of the Bureau and to its services that the Convention has survived both world wars, and that the countries of the Union have been able to resume their mutual relations. It may be said that, until the most recent post-war period, copyright specialists formed a friendly circle within ALAI which benefited from the presence of the Director of the Berne Bureau.

IV. The Influence of the Convention on the Development of Swiss Copyright

After the foundation of the Union, relations between the Convention and Swiss national legislation remained one-sided. Swiss legislation had great difficulty in following the evolution of the text of the Convention. Once again it is preferable to give the floor to Röthlisberger, who gave a very good account of the situation during the period between 1885 and 1922. Indeed his observations do, alas, have a measure of topicality:

> In the field of copyright, Switzerland has handed over to other States the role of guide that it seemed destined to play, in view of the fact that it was on its soil that the first legislative measure for the protection of copyright was taken (Basle, 1531), and also that provision was made for the recognition of the principle of reciprocity in copyright (draft law of the Swiss Government, 1799). In spite of the active and sometimes even exemplary production shown by literature and art, and even though the operational center of the development of international protection, namely the International Bureau of Intellectual Property, is located in the Federal capital, our country is pusbed more than it pushes in that field of law. That is due to the somewbat arid nature of the subject for a country with a direct democracy, but also to the development of law, which has taken place more rapidly in centralized countries.[13]

Nine years later, Röthlisberger violently criticized the draft of the new Law:

> It is proposed that we should translate into reality the main stipulation of the reform, which is the alignment of our very hackward and fragmentary legislation at least on the text of the Beme Convention as revised in 1908, in order that our compatriots may be granted the same rights as those enjoyed by the nationals of other States of the Union; they do indeed benefit from far more favorable treatment in Switzerland since the entry into force of that Convention on September 9, 1910.
>
> For a number of new aspects of this branch of law, it is the very detailed German legislation that sets tbe pattem.
>
> We were indeed to receive a uniform, well-structured law that used precise terminology, hut is it really a law on copyright? It would seem that such a law should grant the creator of literary and artistic works all the prerogatives that derive from his work, and not encroach on this complex set of individual and economic rights except where absolutely necessary in the public interest, lest the already modest profit of the author be reduced to nothing, and his material autonomy, in other words his intellectual independence, be therehy compromised. What could we envisage in its place?
>
> The influence of the "public" interest ... is so great that the rights concerned are pruned and fragmented as practically no others would be. Very subjective reasons are given when it is asserted that this or that limitation "could not cause the author any substantial material prejudice."
>
> To justify such amputations it is frequently claimed that society has in one way or another contributed to the creation of the works, yet that is sophistry. Obviously creative work, just like any other work, could not be achieved without all the means and raw materials that the outside world has to offer, but the very fact that it is done, and moreover that it bears the stamp of the specific personality of a particular intellectual worker, is to the sole credit of the latter; the achievement is not and cannot be anyone else's.
>
> Without subscrihing to a universal denigration of the draft, which clearly does also have highly commendable features, we should like, if only out of sympathy for Swiss democracy and respect for the Berne Convention and the bonds that it creates between peoples, to see our legislation set a much better example of restraint in the so-convenient appropriation of the intellectual property of others. It is a question of showing the people the way, and of stirring its conscience, and not of encouraging an anti-social mentality by means of all sorts of concessions and escape routes. Otherwise the sense of law and justice would suffer badly. We are confident that there will be men on the various councils wbo will stand up to defend the cause of intellectual workers, and fight successfully against retrograde prejudices, for the honor of the country.[14]

This impassioned, stirring appeal produced a response. In spite of bitter discussions, the text of a law that was satisfactory to authors was unanimously adopted by the Council of States and the National Council on December 7, 1922. It entered into force on July 1, 1923.

Röthlisberger expressed its satisfaction in the following terms:

> The immediate main objective of the Law, namely its alignment on the text of the Berne Convention as revised at Berlin in 1908, has in any event been achieved; hut there was another objective, which was to deal conscientiously with a

[13] E. Röthlisberger, "Die Revision der schweizerischen Urbeberrecbtsgesetzgebung," reprinted from the review *Schweiz. Juristen Zeitung*, 6th year, 1910, Nos. 20, 21 and 22, p. 1.

[14] E. Rötblisberger, "Zur Revision der schweiz. Urheberrechtsgesetzgehung. Der Entwurf vom 9. Juli 1918," reprinted from the review *Schweiz. Juristen Zeitung*, 15th year, No. 19 of April 1, 1919, pp. 4 and 7 *et seq.*

rich new legal subject area and to go through a new stage in the development of copyright, and it too has been achieved in a manner that should seem satisfactory to any fair-minded person — even though the Law does not present itself in a "popular" light — thanks to the fact that the negotiations on the whole took a far more favorable turn than at first seemed possible within the authorities and Parliament.[15]

Röthlisberger pointed out the obstacles to the understanding and popularity of the new Law:

Let us not forget that it is a question of introducing in our legal life the condensed result of several decades of reflection in the form of a Law that is at once concise and clear and indicates the direction of development.[16] Yet it is only gradually that society will assimilate in its legal consciousness that which it really owes to the creators of literary and artistic works.[17]

The text of the Convention as revised at Berlin was the driving force that set Swiss legislation in motion and enabled it to achieve fruition. The 1922 Law went beyond the limits of the protection of literary and artistic works set *jure conventionis* by the Berlin Act. In spite of some exceptions, it afforded authors fair and efficacious protection. The term of protection remained fixed at 30 years with the express consent of the Society of Swiss Writers.[18]

The 1922 Law is still in force, with some amendments corresponding to the Rome and Brussels Acts of the Convention. In this Law Swiss legislation aligned itself on the scope of copyright in neighboring countries. It was fair and adequate, but it did not contain either ideas or original formulas that might serve as models for the drafting of a broadened text of the Convention.

There is no indication of any influence that the 1922 Law may have had on the 1928 Rome revision of the Convention.

Swiss legislation was not impressed by the insertion at Rome of Article 6bis in the text of the Convention. Legal writers and the courts agreed in their view that the protection of the private person deriving from application of Article 28 of the Civil Code enshrined all the prerogatives mentioned in Article 6bis.[19]

This conviction prevented Swiss legislation from concerning itself with the protection of the moral interests of authors when the 1922 Law was adapted to the text of the Convention as revised at Brussels. This partial revision of the 1922 Law removed the other differences existing between the provisions of the Convention and those of national law (Federal Law of June 24, 1955, entry into force December 1, 1955). The problem of the conformity of Article 28 of the Civil Code with Article 6bis of the Convention is dealt with below.

The influence of the Convention on Swiss national law is reflected in exemplary fashion, with respect to principles, in Article 68bis of the 1955 Law:

The works of Swiss nationals and those works first published in Switzerland shall enjoy the more extensive protection afforded by the provisions, in their most recent wording approved by Switzerland, of the Berne Convention for the Protection of Literary and Artistic Works.

A better wording of the same declaration appears in Article 2 of the draft Federal Law on Copyright presented by the Federal Council (August 29, 1984):

Application of international treaties. A claim may also be made for the more extensive protection afforded by agreements on copyright to which Switzerland is party.

V. The Drafting of a New Swiss Law and Adaptation to the Paris Act of the Convention

It is not within the terms of reference of this article to describe the long and complex path leading to the drafting of a new Swiss law, or to explain and excuse or justify — always assuming that this is possible — the amazing delay in the ratification of the Paris Act of the Convention. The Federal Council message of August 29, 1984, is informative in this respect. Adaptation to the text of the Paris Act of the 1922 Law as revised in 1955 would not call for major amendments, except with respect to the error according to which Article 28 of the Civil Code is capable of affording protection that conforms to Article 6bis of the Convention. Work has been undertaken and conducted with the objective of producing a clear and simple law that does not content itself with following in the footsteps of the Convention, and one which can take its place alongside the laws of neighboring countries and provoke further discussion of the copyright problems still outstanding. It is in this respect that the draft could serve as a starting point for the amendment of Article 6bis, which is neither conceptually clear nor sufficiently general. What the Federal Council message says on present Swiss law is equally valid for Article 6bis:

The protection of the moral interests of the author in relation to his work has to be strengthened and regulated in a systematic and clearer fashion. By dissociating those interests from the general protection of the private person, one highlights the subject matter of protection, namely the intellectual or personal interests of the author in relation to his work, and, consequently, the integrity of the relations existing between the author and his work. Such protection is more substantial than the protection of the private person, which concerns only

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[15] E. Röthlisberger/B. Mentha, *Schweiz. Urheber- und Verlagsrecht an Werken der Literatur und Kunst*, 2nd edition, Zurich, 1932, p. 9.

[16] E. Röthlisberger (see note 14), p. 16.

[17] E. Röthlisberger, "Das neue schweiz. Urheberrechtsgesetz vom 7. Dezember 1922," *Schweiz. Juristen Zeitung*, 1923, p. 59.

[18] A. Troller, *Immaterialgüterrecht*, 3rd edition, Vol. I, p. 124.

[19] *Ibid.* (see note 19), p. 89, note 67.

the author's reputation and honor. Even a major mutilation of the work would not necessarily do any harm to those two attributes of the private person.[20]

The draft specifies the prerogatives concerned one after the other. The misunderstanding caused by Article 6bis in the context of the theory of moral rights was once an obstacle to the United States of America's accession to the Berne Union. Another part of the draft, which has to do with the protection of moral interests, could also serve as a basis for discussions on the development of the Convention text. That is the section that regulates the relations between the author and the owner of a copy of the work, taking due account of the conflict between copyright and physical ownership.

[20] Federal Council message concerning the Federal Law on Copyright ... of August 29, 1984, p. 17.

It may be said that these are details and refinements that national legislation can concern itself with, and yet they are problems that frequently present themselves to judges and lawyers. As there is little possibility of broadening the scope of protection granted *jure conventionis*, the time may have come to reflect on the text of a uniform law, and to discuss it, fully aware that the goal is a very remote one and that present circumstances are not conducive to an enterprise of such scope.

These comments — I dare not present them as suggestions — are included in this article lest it leave the disappointing impression that Swiss legislation and lawyers are no longer capable of either initiative or original thought in matters of copyright.

(WIPO translation)

Activities of Other Organizations

International Confederation of Societies of Authors and Composers (CISAC)

Legal and Legislation Committee

(Brussels, May 6 to 9, 1986)

The Legal and Legislation Committee of the International Confederation of Societies of Authors and Composers (CISAC) met in Brussels from May 6 to 9, 1986, at the invitation of the Belgian authors' society, SABAM. The members participating in the meeting came from the following countries: Australia, Austria, Belgium, Czechoslovakia, Finland, France, Germany (Federal Republic of), Greece, Hungary, Israel, Italy, Netherlands, Poland, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America. WIPO was represented by Mr. Mihály Ficsor, Director, Copyright Law Division. Unesco and the International Literary and Artistic Association (ALAI) were also represented.

The meeting of the Committee was preceded by a solemn session celebrating the centenary of the Belgian Copyright Law, which was also attended by H.M. Fabiola, the Queen of Belgium, and by Mr. Mundeleer, Secretary of State for Justice.

The Committee heard, in particular, presentations by its members on the following subjects:

— The implications of Article 8.1 of the Copyright Law of France of July 3, 1985 (term of protection *post mortem auctoris* increased to 70 years for musical works) (Mr. T. Desurmont, France),

— Article 22(a) of the Copyright Law of Denmark in the light of the Treaty of Rome and this Article's repercussions on KODA's reciprocal representation contracts with regard to cable distribution (Mr. J. Eskola, Finland),

— Legal system governing the protection of works transmitted by direct broadcasting satellites (Mr. W. Dillenz, Austria),

— Legal status of the translator/adapter after the expiration of the sub-publishing contract (Mr. P. Liechti, Switzerland),

— Legal status of the videoclip (Prof. J. Corbet, Belgium),

— Role of the authors' societies in the defense of the moral rights of authors (Mr. R. du Bois, Netherlands),

— Model provisions for national laws on employed authors (Unesco/WIPO Committee of Experts, Geneva, January 27 to 31, 1986) (Prof. M. Fabiani, Italy).

Each of the above presentations was followed by a lively discussion, in the course of which the Committee was also informed of recent developments in the related activities by WIPO in the fields of copyright and neighboring rights.

At the end of the meeting the Committee adopted a draft declaration on the occasion of the centenary of the Berne Convention, which will be submitted to the Congress of CISAC to be held in Madrid, from October 6 to 11, 1986.

Calendar of Meetings

Commemoration of the Centenary of the Berne Convention

The official celebration of the Centenary of the Berne Convention will be held in Berne on September 11, 1986, at the invitation of the Swiss Government. The Assembly of the Berne Union will hold an extraordinary session on that occasion.

So far we have received information on the following other commemorative events by international non-governmental organizations and national organizations:

September 8 to 12 (Berne) — Congress of the International Literary and Artistic Association (ALAI) in the framework of which the Centenary will be celebrated

September 25 and 26 (Mexico City) — Commemoration of the Centenary in the framework of the Copyright Workshop for Latin American Countries organized by WIPO and the Mexican Institute of Copyright

October 5 to 11 (Madrid) — Congress of the International Confederation of Societies of Authors and Composers (CISAC) in the framework of which the Centenary will be celebrated

November 18 to 21 (Cracow) — Commemoration of the Centenary in the framework of a Seminar organized by the Jagiellonian University

November 24 to 28 (New Delhi) — Commemoration of the Centenary in the framework of the Regional Workshop on Copyright and Neighboring Rights organized by WIPO and the Government of India

WIPO Meetings

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

1986

July 2 to 4 (Geneva) — Working Group on Links Between the Madrid Agreement and the Proposed (European) Community Trade Mark

September 1 to 5 (Geneva) — Permanent Committee on Patent Information (PCPI) and PCT Committee for Technical Cooperation (PCT/CTC)

September 8 to 10 (Geneva) — WIPO Patent and Trademark Information Fair

September 8 to 12 (Geneva) — Governing Bodies (WIPO Coordination Committee, Executive Committees of the Paris and Berne Unions, Assembly of the Berne Union)

October 13 to 17 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on General Information

October 20 to 22 (Geneva) — Committee of Governmental Experts on Works of Architecture

November 11 to 14 (Geneva) — Committee of Experts on the International Registration of Marks

November 17 to 21 (Geneva) — Paris Union: Committee of Experts on the Harmonization of Certain Provisions in Laws for the Protection of Inventions

November 24 to December 5 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on Search Information

December 8 to 12 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Groups on Special Questions and on Planning

December 16 to 19 (Paris) — Committee of Governmental Experts on Works of Visual Art

UPOV Meetings

1986

July 15 to 18 (Wageningen) — Technical Working Party for Ornamental Plants and Forest Trees, and Subgroup
September 15 to 19 (Wädenswil) — Technical Working Party for Fruit Crops, and Subgroup
November 18 and 19 (Geneva) — Administrative and Legal Committee
November 20 and 21 (Geneva) — Technical Committee
December 1 (Paris) — Consultative Committee
December 2 and 3 (Paris) — Council

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

Non-Governmental Organizations

1986

September 8 to 12 (Berne) — International Literary and Artistic Association (ALAI) — Congress
October 6 to 11 (Madrid) — International Confederation of Societies of Authors and Composers (CISAC) — Congress
October 20 to 23 (Vienna) — International Federation of Musicians (FIM) — Congress