

Type of norm : Law 17336  
 Date of publication : October 2, 1970  
 Date of enactment : August 28, 1970  
 Body : MINISTRY OF PUBLIC EDUCATION  
 Title : INTELLECTUAL PROPERTY  
 Type of version : Latest version Date: May 4, 2010  
 Entry into force : May 4, 2010  
 Norm ID : 28933  
 Last amended : May 4, 2010 Law 20,435  
 URL : <http://www.leychile.cl/N?i=28933&f=2010-05-04&p=>

<p><b>LAW No. 17,336</b></p> <p><b>INTELLECTUAL PROPERTY</b></p> <p>Whereby the National Congress has decided to adopt the following</p> <p><b>DRAFT LAW:</b></p> <p><b>“TITLE I</b> <b>COPYRIGHT</b></p> <p><b>CHAPTER I</b> <b>Nature and purpose of Protection. Definitions</b></p> <p><b>Article 1.–</b> This Law shall protect those rights which, by the mere fact of the creation of a work, are acquired by the authors of works of the mind in literary, artistic or scientific fields, regardless of their form of expression, and the related rights it determines.      Copyright shall cover the economic and moral rights that protect the exploitation, ownership and integrity of the work.</p>	
<p><b>Article 2.–</b> This Law shall cover the rights of all Chilean authors, performers, producers of phonograms and Chilean and foreign broadcasting organizations domiciled in Chile. The rights of foreign authors, performers, producers of phonograms and broadcasting organizations who/which are not domiciled in the country shall enjoy the protection afforded under the international conventions that Chile has signed and ratified.      For the purposes of this Law, authors who are stateless or of unknown nationality shall be considered nationals of the country in which they have taken up residency.</p>	<p>LAW 19,914          Article 3, No. 1          D.O. November          19 2003</p>

<p><b>Article 3.</b>– The following shall enjoy special protection under this Law:</p> <p>(1) books, leaflets, articles and writings, regardless of their form and nature, including encyclopedias, guides, dictionaries, anthologies and compilations of all kinds;</p> <p>(2) lectures, speeches, lessons, papers, comments or similar works, both in oral form or in written or recorded versions;</p> <p>(3) dramatic, dramatico-musical and theatrical works in general, as well as choreographies and pantomimes, whose development is fixed in writing or in another form;</p> <p>(4) musical compositions with or without text;</p> <p>(5) radio or television adaptations of any literary production, original works produced for radio or television, as well as the corresponding librettos and scripts;</p> <p>(6) periodicals, reviews or other similar publications;</p> <p>(7) photographs, engravings and lithographs;</p> <p>(8) cinematographic works;</p> <p>(9) architectural projects, blueprints and mock-ups and systems for the preparation of maps;</p> <p>(10) globes or armillary spheres, as well as three-dimensional works relating to geography, topography or any other science, and in general audiovisual material;</p> <p>(11) paintings, drawings, illustrations and the like;</p> <p>(12) sculptures and works of similar figurative arts, even if they are applied in industry, provided that their artistic value can be considered separately from the industrial nature of the subject matter in which they have been incorporated;</p> <p>(13) Scenographic sketches and the respective scenographs, where their author is the sketcher;</p> <p>(14) adaptations, translations and other transformations, where they have been authorized by the author of the original work if such a work is not part of the common cultural heritage;</p> <p>(15) videograms and slide shows;</p> <p>(16) computer programs, regardless of the mode and form of expression, as source or target programs, including preparatory documentations, their technical description and user manuals;</p> <p>(17) compilations of data or other materials, in a legible format, typed or otherwise, that owing to the selection or layout of their contents, constitute creations of an intellectual nature. Such protection shall not cover the data or materials in themselves, and shall be understood without prejudice to any copyright that subsists with regard to the data or materials contained in the compilation;</p> <p>(18) sketches or textile models.</p> <p><b>Article 4.</b>– The title of the work shall form part thereof and must always be mentioned together with the author’s name, where this is used publicly.</p> <p>It shall be forbidden to use the title of a work or another that can clearly deceive or confuse, to personalize another similar work.</p> <p><b>Article 5.</b>– For the purposes of this Law, the following definitions shall apply:</p> <p>(a) individual work: that which is produced by a single natural person;</p>	<p>LAW 18,957 Sole Art., No. 1 D.O. March 5, 1990</p> <p>LAW 18,957 Sole Art., No. 2 D.O. March 5, 1990</p> <p>LAW 19,912 Art. 20, No. 1 D.O. November 4, 2003</p> <p>LAW 19,912 Art. 20, No. 2 D.O. November 4, 2003</p>
--	---

<p>(b) work in cooperation: that which is produced jointly by two or more natural persons whose contributions cannot be separated;</p> <p>(c) collective work: that which is produced by a group of authors, at the initiative and under the guidance of a natural person or legal entity who/which coordinates, discloses and publishes it under his/its name;</p> <p>(d) anonymous work: a work in which the author's name is not mentioned, in accordance with his wishes or because his name is not known;</p> <p>(e) pseudonymous work: a work in which the author hides behind a pseudonym which does not identify him, it being understood as such, and which has not been registered in accordance with Article 8;</p> <p>(f) unpublished work: a work that has not been made known to the public;</p> <p>(g) posthumous work: a work only published after the author's death;</p> <p>(h) original work: a work which has been created for the first time;</p> <p>(i) derived work: a work resulting from the adaptation, translation or other transformation of an original work, provided that this constitutes a separate creation;</p> <p>(j) artist or performer: the actor, announcer, narrator, orator, singer, dancer, musician or any other person who performs or stages a literary or artistic work or expressions of folklore;</p> <p>(k) phonogram producer: the natural person or legal entity who/which takes the initiative and bears financial responsibility for the first fixation of the sounds of a performance or other sounds or the representation of sounds;</p> <p>(l) broadcasting organization: the radio or television company that broadcasts programs to the public;</p> <p>(m) phonogram: any exclusively sound fixation of the sounds of a performance or of other sounds;</p> <p>Phonogram copy: the medium which contains sounds taken directly or indirectly from a phonogram, and which incorporates all or a substantial share of the sounds fixed therein;</p> <p>(m bis) broadcasting. For the purposes of copyright for performers and producers of phonograms, this shall mean the wireless transmission of sounds or images and sounds or representations thereof, for reception by the public; such transmission via satellite shall also constitute "broadcasting"; the transmission of encoded signals shall constitute "broadcasting" if the means for decoding are made available to the public by the broadcasting organization or with its consent;</p> <p>(n) broadcast or transmission: the broadcasting via the medium of radioelectric waves, of sound or of sounds synchronized with images;</p> <p>(o) rebroadcasting: the broadcasting of the transmission of a broadcasting organization by another or the broadcasting by another of the same transmission;</p> <p>(p) publication of a work or performance which has been fixed or of a phonogram means the making available to the public of the work or performance which has been fixed or of the phonogram, with the consent of the rights holder, provided that the tangible copies are made available to the public in sufficient quantity;</p> <p>(q) videogram: the audiovisual fixations incorporated in cassettes, disks or other material media;</p> <p>Videogram copy: the medium that contains images and sounds taken directly or indirectly from a videogram and which incorporates all or a substantial share of the images and sounds fixed therein;</p>	<p>LAW 19,914 Art. 3, No. 2 (a) and (b) D.O. November 19, 2003</p> <p>LAW 18,443 Sole Art., No. 1(a) D.O. October 17, 1985</p> <p>LAW 19,914 Art. 3, No. 2(c) D.O. November 19, 2003</p> <p>LAW 18,443 Sole Art., No. 1(b) D.O. October 17, 1985 LAW 19,914 Art. 3, No. 2(d) D.O. November 19, 2003</p> <p>LAW 18,443 Sole Art., No. 1(b)</p>
---	---

<p>(r) distribution: the making available to the public of the original or tangible copies of the work by means of its sale or any other form of transfer of ownership or possession of the original or copy;</p> <p>(s) playlist: the list of the musical works performed mentioning the title of the work and the name or pseudonym of its author; where the performance is by means of a phonogram, the reference shall also include the artistic name of the performer and the producer's brand;</p> <p>(t) slide show: a mechanical system that combines the showing of a slide with an oral explanation;</p> <p>(u) computer program: a body of instructions to be used directly or indirectly in a computer for the purpose of obtaining a specific process or outcome, contained in a cassette, diskette, magnetic tape or other material medium;</p> <p>Copy of a computer program: a material medium which contains instructions taken directly or indirectly from a computer program and which incorporates all or a substantial share of the instructions fixed therein;</p> <p>(v) reproduction: the permanent or temporary fixation of the work in a medium which makes it possible to communicate it or to obtain copies of all or part thereof, by any means or procedure;</p> <p>(w) communication to the public: any act, executed by any means or procedures, which serves to disseminate the signs, words, sounds or images, which are known at present or will be known in the future, whereby a group of persons, who may or may not meet in the same place, may access the work without prior distribution of copies to each of them, including the making available of the work to the public, in such a way that members of the public may access the work from a place and at a time individually chosen by them;</p> <p>(x) transformation: any act modifying the work, including its translation, adaptation or any other variation in its form, from which a different work is derived;</p> <p>(y) Fixation: the incorporation of sounds, or the representation thereof, from which they may be seen, reproduced or communicated by means of some device;</p> <p>(z) Service provider: for the purposes of the provisions of Chapter III, Title III of this Law, a company supplying the transmission, routing or connections for on-line digital communications, with no change to its content, between specific points, for the user of the material selected, or a company supplying or operating on-line service facilities or network access.</p>	<p>D.O. October 17, 1985</p> <p>LAW 19,914 Art. 3, No. 2(e) D.O. November 19, 2003 LAW 18.957 Sole Art., No. 4 D.O. March 5, 1990</p> <p>LAW 18.957 Sole Art., No. 5 D.O. March 5, 1990</p> <p>LAW 20,435 Art. 1., No. 1(a) D.O. May 4, 2010</p> <p>LAW 19,914 Art. 3., No. 2(f) D.O. November 19, 2003 LAW 20,435 Art. 1, No. 1(b) D.O. May 4, 2010</p>
<p><b>CHAPTER II</b> <b>Copyright subjects</b></p> <p><b>Article 6.</b>– Only the copyright holder may decide to disclose the work in part or in full.</p> <p><b>Article 7.</b>– The author of the work shall be the original copyright holder. The person who acquires the work from the author on any basis shall be the secondary copyright holder.</p>	

<p><b>Article 8.</b>– Barring evidence to the contrary, the author of a work shall be presumed to be the person to whom it falls to make public the work, by indicating his name, pseudonym, signature or sign that identifies him on a usual basis, or the person to whom, according to the corresponding registration, the copy being registered belongs.</p> <p>In the case of computer programs, the copyright holders shall be respectively the natural persons or legal entities whose dependants, in the performance of their duties, have produced them, unless otherwise stipulated in writing.</p> <p>With regard to computer programs produced under commission for a third party, the copyright shall be deemed to be transferred to the third party, unless otherwise stipulated in writing.</p> <p><b>Article 9.</b>– Anyone who adapts, translates or transforms the protected original work with the consent of the original holder shall be a subject of the copyright covering the derived work. The publication of the derived work must contain the name or pseudonym of the original author.</p> <p>Where the original work belongs to the common cultural heritage, the adaptor, translator or transformer shall enjoy all of the rights afforded by this version of the Law; however, he may not prevent others from using the same original work to produce different versions.</p> <p><b>CHAPTER III</b> <b>Term of protection</b></p> <p><b>Article 10.</b>– The term of protection granted by this Law shall be the life of the author and 70 years after his death.</p> <p>In the case provided for in the second subparagraph of Article 8, where the employer is a legal entity, the term of protection shall be 70 after the first publication.</p>	<p>LAW 19,912 Art. 20, No. 5 D.O. November 4, 2003</p> <p>LAW 18.957 Sole Art., No. 6 D.O. March 5, 1990</p> <p>LAW 20,435 Art. 1, No. 2 D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 3 D.O. May 4, 2003 LAW 19914 Art. 3, No. 3 D.O. November 19, 2003</p>
<p><b>Article 11.</b>– The following shall belong to the common cultural heritage:</p> <ul style="list-style-type: none"> <li>(a) works whose term of protection has expired;</li> <li>(b) works by unknown authors, including songs, legends, dances and expression of folkloric heritage;</li> <li>(c) works whose owners have waived the protection granted by this Law;</li> <li>(d) works by foreign authors residing abroad who are not protected under the form provided for in Article 2; and</li> <li>(e) works which have been expropriated by the State, unless the law specifies a beneficiary.</li> </ul> <p>Works of the common cultural heritage may be used by anyone, provided they respect the ownership and integrity of the work.</p>	<p>LAW 19,166 Art. 1, No. 2 D.O. September 17, 1992</p>

<p><b>Article 12.</b>– In the case of works of joint authorship, the period of 70 years shall be calculated from the death of the last co-author. If a joint author dies intestate without leaving compulsory assignees, his royalties shall be combined with those of the coauthor or coauthors.</p> <p><b>Article 13.</b>– The term of protection for anonymous or pseudonymous works shall be 70 years, beginning from the first publication. If the author reveals his identity beforehand, the term of protection shall be in accordance with the provisions of Article 10. In relation to the foregoing subparagraph and to Article 10, failing such authorized publication within a period of 50 years beginning from the date of creation of the work, the term of protection shall be 70 years beginning from the end of the calendar year in which the work was created.</p>	<p>LAW 19,914 Art. 3, No. 4 D.O. November 19, 2003 LAW 20,435 Art. 1, No. 4 D.O. May 4, 2010 LAW 19,914 Art. 3, No. 5a D.O. November 19, 2003 LAW 19914 Art. 3, No. 5b D.O. November 19, 2003</p>
<p><b>CHAPTER IV</b> <b>Moral rights</b></p> <p><b>Article 14.</b>– The author, as the exclusive owner of the moral rights, shall have the following rights for life: (a) to claim ownership of the work, associating his name or known pseudonym therewith; (b) to oppose any distortion, mutilation or other modification made without prior express consent. This shall not be taken to mean works of conservation, reconstitution or restoration of works that have suffered damage which alters or diminishes their artistic value; (c) to keep the work unpublished; (d) to authorize third parties to finish an unfinished work, subject to the consent of the publisher or assignee, as the case may be; and (e) to demand that his wish to keep the work anonymous or pseudonymous be respected until it belongs to the common cultural heritage.</p> <p><b>Article 15.</b>– The moral right shall be transmitted upon death to the surviving spouse and to the author’s <i>ab intestato</i> successors.</p> <p><b>Article 16.</b>– The rights enumerated in the previous articles shall be inalienable, and any agreement to the contrary shall be null and void.</p> <p><b>CHAPTER V</b> <b>Economic rights, their exercise and limitations</b></p> <p><b>Paragraph I</b> <b>Economic rights in general</b></p> <p><b>Article 17.</b>– The economic rights shall give the copyright holder the right to make direct personal use of the work and to assign, in full or in part, his rights in it and to authorize its use by third parties.</p> <p><b>Article 18.</b>– Only the copyright holders or persons expressly authorized by him shall be entitled to use the work in any of the following forms: (a) its publication by means of its edition, recording, radio or television broadcasting, performance, reading, recital, exhibition and, in</p>	<p>LAW 19,914</p>

<p>general, any other means of communication to the public, which is known at present or will be known in the future;</p> <p>(b) its reproduction by any process;</p> <p>(c) its adaptation to another genre, or its use in any other form which leads to a variation, adaptation or transformation of the original work, including translation;</p> <p>(d) its public performance by means of radio or television broadcasting, phonographic records, cinematographic films, magnetic tapes or another medium suitable for use in recording apparatuses for sound and voices, with or without images, or by any other means;</p> <p>(e) its distribution to the public via sale, or any other transfer of ownership of the original or copies of the work that have not given rise to sale or any other transfer of ownership authorized by him or in accordance with this Law.</p> <p>Nevertheless, the first sale or other transfer of ownership in Chile or abroad shall exhaust the right of distribution nationally and internationally in respect of the transferred original or copy.</p> <p><b>Article 19.</b>— No one may make public use of a work in the private domain without having obtained the express authorization of the copyright holder.</p> <p>Those responsible for any breach of the provisions of this Article shall be liable to the corresponding civil and penal sanctions.</p> <p><b>Article 20.</b>— “Authorization” shall mean the license granted by the copyright holder, in any contractual form, to use the work in any of the formats and by any of the means provided for by this Law.</p> <p>The authorization shall stipulate the rights granted to the authorized person, specifying the term, remuneration and form of payment, the minimum or maximum number of performances or copies authorized or, if this number is unlimited, the field of application and any other restrictive clauses imposed by the copyright holder. The agreed remuneration shall in no case be less than the percentage indicated in the Regulations.</p> <p>The authorized person shall not be granted rights greater than those contained in the authorization, apart from those inherent in the authorization by its nature.</p>	<p>Art. 3, No. 6 D.O. November 19, 2003</p>
<p><b>Article 21.</b>— Any owner, licensee, user, businessman, lessee or person who operates any entertainment hall, public premises or radio or television station in which theatrical works, cinematographic or musical pieces or phonograms or videograms containing such works by national or foreign authors are performed or shown, may obtain the authorization referred to in the foregoing Articles from the respective collective management body, by means of a non-exclusive license. He shall be obliged to pay the remuneration stipulated in the license, in accordance with the rules laid down in Title V.</p> <p>Under no circumstances shall the authorizations granted by said collective management bodies limit the power of the rights holders to administer their works individually in respect of single uses made thereof, in accordance with the provisions of the foregoing Article.</p> <p><b>Article 22.</b>— Authorizations concerning literary or musical works</p>	<p>LAW 19,166 Art. 1, No. 4 D.O. September 17, 1992</p>

shall not confer exclusive use of the work, and the rights holder shall retain the power to grant such exclusive use, or non-exclusive use, to third parties, unless otherwise agreed.

**Article 23.**– The powers inherent in the economic rights and the monetary benefits of the work in joint authorship shall be vested in the body of coauthors.

Any of the coauthors may demand the publication of the work.

Those coauthors who oppose publication may only demand the exclusion of their name while retaining their economic rights.

## **Paragraph II Special rules**

**Article 24.**– In respect of the works referred to below, the following rules shall apply:

(a) in anthologies, collections of texts or similar compilations, the right in the compilation shall be vested in the compiler, who shall be obliged to obtain the consent of the holders of the rights in the works used and to pay the remuneration agreed with them, unless it is expressly provided that such authorization is granted free of charge;

(b) in encyclopedias, dictionaries or similar compilations, commissioned by the compiler, these rights shall be held by the rights holder, in respect of both the compilation and the individual contributions;

(c) in newspapers, reviews or other periodical publications:

(1) The newspaper company shall acquire the right to publish in the newspaper, review or periodical in which the author(s) provide(s) their services, the articles, drawings, photographs or other productions provided by the staff under a work contract, ensuring for the authors the other rights as those protected by this Law.

Where those productions are published in other newspapers, reviews or periodicals of the same company, different from that/those in which the services are provided, the authors shall be entitled to payment of the additional fee stipulated in the Fee Schedule of the Association of Chilean Journalists. Where the productions are published by a newspaper company different from the employer, said company shall pay the author(s) the fee set under the foregoing Fee Schedule.

The right to the compensation stipulated in the foregoing subparagraph shall expire one year after the respective publication of the productions; however, such expiration shall be suspended for the benefit of the author(s) in respect of the employing newspaper company, while the work contract remains in force.

(2) In respect of productions commissioned by a medium from persons not under a work contract, said media shall enjoy exclusive rights to their publication in the first edition published following their delivery, unless they have been expressly commissioned for a later edition. Once the corresponding period has expired, the author shall be free to dispose of them as he chooses.

(d) News and information agencies shall be subject to the provisions of (c) in respect of the articles, drawings, photographs and other productions protected by this Law; and

(e) in respect of radio or television stations, the media organization or the authors of the productions broadcast shall enjoy the

same rights as, depending on the case, those laid down under (1) and (2) of (c).

**Article 25.**– The copyright for a cinematographic work shall be vested in its producer.

**Article 26.**– The producer of a cinematographic work shall be the natural person or legal entity who/which takes the initiative and has the responsibility for producing the work.

**Article 27.**– The lawful authors of a cinematographic work shall be the natural person(s) who is/are the intellectual creator(s) of said work. Unless proven otherwise, the coauthors of a cinematographic work of joint authorship shall be presumed to be the authors of the plot, staging, adaptation, script and music specially composed for the work, and the director.

Where the cinematographic work has been taken from a protected work or staging, the authors of the initial work or staging shall also be deemed to be the authors of the subsequent work.

**Article 28.**– If one of the authors of the cinematographic work stops participating in its production, he shall not lose the respective rights to his contribution; however, he may not object to his part being used to complete the work.

Each of the authors of the cinematographic work shall be free to exploit, in various ways, the part that represents his personal contribution.

**Article 29.**– The contract between the authors of the cinematographic work and the producer shall entail the assignment, for the producer's benefit, of all of the rights therein, and shall give him the right to show it in public, present it on television, reproduce copies thereof, rent or transfer it, without prejudice to the rights granted by this Law to the authors of the works used and the other collaborators.

In respect of rental contracts for foreign cinematographic films, it shall always be understood that the rental fee agreed shall cover the value of all of the copyright and related rights arising from the respective cinematographic work, to be paid exclusively by the distributor.

**Article 30.**– The cinematographic producers shall be obliged to include in the film, in such a way that they can be seen when the film is shown, his own name and company name, and the names of the director, the authors of the staging, the original work, the adaptation, the script, the music and lyrics of the songs, and the main actors and performers.

**Article 31.**– The authors of the plot for the music, the lyrics of the songs, the dubbing of a work that may have been adapted for the

<p>cinema, shall retain the right to use their respective contributions separately, barring any agreement that they are to be used exclusively for the cinematographic production.</p> <p><b>Article 32.</b>– The producer shall have the right to modify the works he uses in the cinematographic production, to the extent that they require adaptation to this art.</p> <p><b>Article 33.</b>– In the event that the producer fails to finish the cinematographic work within two years following the receipt of the plot and the delivery of the literary or musical works that have been used, the respective rights holders shall be entitled to terminate the contract. In that case, the author shall give legal notice to the producer and shall dispose of his contributions to the work, without this implying waiver of the right to claim compensation for any damage he may have suffered due to the delay. Prior to the expiry of the period referred to in the previous subparagraph, the producer may ask the judge of the author’s place of residence for an extension, which shall be granted if he can prove that the delay is due to <i>force majeure</i>, unforeseeable circumstances or difficulties due to problems with the work.</p> <p><b>Article 34.</b>– A photographer shall have the exclusive right to reproduce, display, publish and sell his photographs, with the exception of those photographs taken under contract, in which case said right shall belong to the party who has commissioned the work, without prejudice to the provisions of Article 24(c)(1). The transfer of the negative or of a similar means of reducing the photograph shall imply the transfer of the exclusive right recognized in this Article.</p> <p><b>Article 35.</b>– REPEALED</p>	<p>LAW 19,914 Art. 3, No.7 D.O. November 19, 2003</p>
<p><b>Article 36.</b>– Once this Law enters into force, the Chilean author of a painting, sculpture, drawing or sketch shall have an inalienable right to receive five per cent of the highest real value obtained by the acquirer, from selling the work either at public auction or through an established dealer. This right may be exercised at each of the future sales of the work, and shall be vested exclusively in the author, not his heirs, legatees or assignees. It shall be for the author to furnish proof of the original price of the work or the prices paid in subsequent sales thereof.</p> <p><b>Article 37.</b>– The acquisition, on any basis, of paintings, sculptures, drawings or other works of three-dimensional arts shall not entitle the acquirer to reproduce, display or publish them for personal gain. The author shall retain the right to reproduce the work but may not, unless authorized by the owner of the original, transfer or market such reproductions. He may also, on a non-profit basis, publish or display</p>	

reproductions of his original works that have been transferred, provided that he supplies written proof that they are copies of the original.	
<p><b>Article 37bis.</b>– Authors of computer programs shall have the right to authorize or prohibit the commercial rental to the public of said works protected by copyright.  This right shall not apply to computer programs where those programs are not the primary subject of such rental.</p> <p><b>PARAGRAPH III</b>  <b>Exceptions to the foregoing rules.</b> – Repealed.</p> <p><b>Article 38.</b>– (REPEALED)</p> <p><b>Article 39.</b>– REPEALED</p> <p><b>Article 40.</b>– (REPEALED)</p> <p><b>Article 41.</b>– (REPEALED)</p> <p><b>Article 42.</b>– (REPEALED)</p> <p><b>Article 43.</b>– (REPEALED)</p> <p><b>Article 44.</b>– (REPEALED)</p> <p><b>Article 45.</b>– (REPEALED)</p> <p><b>Article 45 bis.</b>– (REPEALED)</p> <p><b>PARAGRAPH IV</b>  <b>Copyright exceptions.</b> – Repealed.</p>	<p>LAW 19,914  Art. 3, No. 8  D.O. November 19, 2003</p> <p>LAW 2,435  Art. 1, No. 5  D.O. May 4, 2010</p> <p>LAW 20,435  Art. 1, No. 6  D.O. May 4, 2010</p> <p>LAW 20,435  Art. 1, No. 6  D.O. May 4, 2010</p> <p>LAW 19,166  Art. 1, No. 6  D.O. September 17, 1992</p> <p>LAW 20,435  Art. 1, No. 6  D.O. May 17, 2010</p> <p>LAW 20,435  Art. 1, No. 6  D.O. May 4, 2010</p> <p>LAW 20,435  Art. 1, No. 6  D.O. May 4, 2010</p> <p>LAW 20,435  Art. 1, No. 6  D.O. May 4, 2010</p> <p>LAW 20,435  Art. 1, No. 6  D.O. May 4, 2010</p> <p>LAW 20,435  Art. 1, No. 6  D.O. May 4, 2010</p> <p>LAW 20,435  Art. 1, No. 6  D.O. May 4, 2010</p> <p>LAW 20,435  Art. 1, No. 6  D.O. May 4, 2010</p>

<p><b>Article 46.– (REPEALED)</b></p>	<p>D.O. May 4, 2010</p>
<p><b>Article 47.– (REPEALED)</b></p>	<p>LAW 20,435 Art. 1, No. 6 D.O. May 4, 2010</p>
<p><b>CHAPTER VI</b> <b>Publishing contract</b></p>	<p>LAW 20,435 Art. 1, No. 6 D.O. May 4, 2010</p>
<p><b>Article 48.–</b> Through a publishing contract, a copyright holder shall deliver or undertake to deliver a work to the publisher, which the publisher shall be bound to publish, at his own expense and for his own benefit, by means of its graphic printing and distribution, and to pay remuneration to the author.</p> <p>The publishing contract may be amended by public deed or through a private document signed before a notary, and shall contain the following:</p> <ul style="list-style-type: none"> <li>(a) the particulars of the author and the publisher;</li> <li>(b) the particulars of the work;</li> <li>(c) the appropriate edition number and the number of copies of each edition;</li> <li>(d) an indication whether the publisher has been granted exclusive rights;</li> <li>(e) the remuneration agreed with the author, which may not be less than the amount stipulated in Article 50, and the payment form; and</li> <li>(f) any other provisions which the parties have agreed.</li> </ul>	<p>LAW 20,435 Art. 1, No. 6 D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 6 D.O. May 4, 2010</p>
<p><b>Article 49.–</b> The publishing contract shall not give the publisher other rights than the right to print, publish and sell copies of the work under the conditions agreed. The author shall retain exclusive rights in respect of the translation, public presentation, cinematographic, phonographic or television adaptation of the work or any other uses thereof.</p> <p>The right granted to a publisher to publish various separate works shall not cover the capacity to publish them together in a single volume, or vice versa.</p>	
<p><b>Article 50.–</b> Where the agreed remuneration consists in sharing in the proceeds from the sale, such remuneration shall not be less than 10 per cent of the public sale price for each copy.</p> <p>In such a case, the publisher shall render accounts to the copyright holder at least once a year, by means of a comprehensive and documented report specifying the number of copies printed, the number of copies sold, and the balance in warehouses, bookshops or on deposit or consignment, the number of copies destroyed owing to unforeseen circumstances or <i>force majeure</i>, and the amount of the royalties paid or due to the author.</p> <p>In the event that the publisher fails to render accounts in the foregoing manner, he shall be presumed to have sold the whole of the edition, and the author shall be entitled to demand payment of the percentage corresponding to said total.</p>	

**Article 51.**– The author shall have the right to void the publishing contract in the following cases:

(a) where the publisher fails to meet the obligation of editing and publishing the work within the stipulated period or, if no such period has been set, within one year following the delivery of the originals; and

(b) where the publisher is authorized to publish more than one edition and where, once the copies of the edition for sale have run out, he does not then publish a new edition, within the period of one year, beginning from the legal notice served upon him by the author.

In cases where the contract has been voided due to breach of contract by the publisher, the author may keep any advances received from the publisher, without prejudice to the right to institute appropriate proceedings against the publisher.

The publisher may, in turn, request that the contract be voided if the author fails to deliver the work within the period agreed and, if no such period has been set, within one year as from the date of the agreement, without prejudice to the right to take appropriate legal action against the author.

Without prejudice to the provisions of subparagraph (b), the author of a work which has been published twice or more and which is out of print may order the publisher to bring out a new edition, with the same print run as the previous edition published, within the period of one year beginning from the respective injunction.

In the event that the publisher refuses to bring out a new edition, the author may appeal to the Intellectual Rights Department established in Article 90. After hearing the publisher, that body may, if it deems his refusal to be unfounded, order him to make the requested publication and sale to the public, subject to a warning by a third party, at the infringer's cost, in case of non-compliance.

**Article 52.**– The author may void the contract if, more than five years after the edition has gone on sale, the public has not purchased more than 20 per cent of the copies. In such a case, the author shall purchase all of the unsold copies from the publisher, at cost price

**Article 53.**– Where a work by an unknown author is published and the author's identity is subsequently established, the publisher shall still be obliged to pay the author 10 per cent of the public sale price for any copies that may have been sold and shall retain the right to sell the balance, subject to the payment of the percentage indicated or another percentage agreed with the author.

The author shall have a prior right to purchase any copies in the hands of the publisher, less any discount which the publisher may have granted to distributors and consignees.

Where the publisher has acted in bad faith, the author shall further be entitled to appropriate compensation.

**Article 54.**– The publisher shall be entitled to institute legal proceedings with a view to the withdrawal from circulation of any fraudulent editions that may have been brought out during the life of the contract and even thereafter, until the edition is out of print.

The author shall be entitled to the full price in respect of any excess copies published or reproduced in breach of the contract.

The Regulations shall stipulate the measures designed to avoid the printing and placing on sale of copies in excess of the number agreed by the author and the publisher.

**Article 55.**— A party who publishes a protected work within the national territory shall be obliged to affix visibly, in all copies, the following indications:

- (a) the title of the work;
- (b) the name or pseudonym of the author or authors, and of the translator or coordinator, unless they have expressed a desire to remain anonymous;
- (c) a reference to the reserve, with an indication of the name or pseudonym of the copyright holder and the entry number in the register;
- (d) the year and place of publication of the edition and previous editions, as the case may be;
- (e) the name and address of the publisher and printer; and
- (f) the print run.

Omission of the foregoing indications shall not lead to deprivation of the rights granted by this Law, but shall result in the levying of a fine, in accordance with Article 81 of this Law, and the obligation to rectify the omission.

## **CHAPTER VII**

### **Performance contract**

**Article 56.**— A performance contract shall be an agreement whereby the author of a work of any kind grants a promoter the right to arrange for the public performance of the work, in exchange for the royalty payments agreed by the two parties. Such payments may not be less than the percentages indicated in Article 61.

A representation contract may be amended by public deed or through a private instrument signed before a notary.

**Article 57.**— The promoter shall be obliged to arrange for public performances of the work during the six months following the signing of the contract.

If the legal or contractual time limit expires without the work having been premiered, the author shall be entitled to void the contract, without being obliged to return any advances he may have received.

**Article 58.**— Unless otherwise stipulated, the promoter shall acquire exclusive rights to the performance of the work only for the six months following its premiere, and, without exclusive rights, for a further six months.

**Article 59.**— The promoter shall be entitled to void the contract, losing any advances paid to the author, if the work ceases to be

<p>performed during the first seven performances owing to any cause or circumstance beyond his control, barring unforeseen circumstances or <i>force majeure</i>.</p> <p>If the work ceases to be performed for reasons which can be attributed to the promoter, the author shall be entitled to void the contract and sue for damages, keeping any advances which may have been paid.</p> <p><b>Article 60.</b>– The promoter shall be obliged to:</p> <p>(a) stage the work in the conditions set out in the contract, without introducing additions, cuts or variations not agreed with the author, and to announce it to the public with its title, the name of the author and, as the case may be, the name or the translator or adaptor.</p> <p>(b)– let the author monitor the staging of the work; and</p> <p>(c)– keep the main actors or orchestra or choir conductors, if they were selected in agreement with the author.</p> <p><b>Article 61.</b>– Where the royalty payments to the author(s) have not been contractually fixed as a higher percentage, they shall amount to a total of 10 per cent of the overall value of the receipts for each performance, and 15 per cent for the premiere, less any taxes on receipts.</p> <p><b>Article 62.</b>– Where the performance is also broadcast on radio or television, the author shall be entitled to receive a minimum of five per cent of the amount charged by the broadcaster for the advertising broadcast during the program or, failing any such advertising, 10 per cent of what the promoter receives from the broadcaster for broadcasting the performance. Such royalty payments shall be made without prejudice to the royalty payment made to the entitled party, in accordance with Article 61.</p> <p><b>Article 63.</b>– The author’s share of the receipts shall be considered a deposit held by the promoter for the author, and shall not be affected by any freezing of the promoter’s assets.</p> <p>In the event that the promoter, when asked to do so by the author, fails to hand over to the author the receipts he was holding as a deposit, the competent judicial authority, at the request of the party concerned, shall order the suspension of the performances of the work or the retention of the proceeds, without prejudice to the author’s right to void the contract and institute appropriate proceedings.</p>	
<p><b>Article 64.</b>– Single public performances of one or more musical works or the public recital or reading of literary works shall be governed by the prior applicable provisions, in which case the royalty payments for the author or authors may not be less than the amount fixed by the management bodies, in accordance with the nature of the use. The foregoing shall be without prejudice to the provisions of Article 100.</p>	<p>LAW 19,166 Art. 1, No. 7 D.O. September 17, 1992</p>

<p><b>TITLE II</b> <b>RELATED RIGHTS</b></p> <p><b>CHAPTER I</b></p> <p><b>Artists and performers</b></p> <p><b>Article 65.</b>– Related rights shall be those granted by this Law to artists or performers to allow or prohibit the dissemination of their productions and receive royalty payments for the public use thereof , without prejudice to the royalty payments to which the author of the work is entitled.</p> <p>None of the provisions of this Law relating to related rights may be interpreted at the expense of the production to which it grants copyright.</p> <p>Where it shall be necessary to obtain the authorization of the author of a work incorporated in a phonogram and the authorization of the artist or performer and the producer of the phonogram, all of the parties concerned must agree, failing which agreement shall not be valid.</p>	<p>LAW 20,435 Art. 1, No. 7 D.O. May 4, 2010</p>
<p><b>Article 66.</b>– With regard to the performances of a performer, it shall be prohibited, without his express authorization or that of his heir or assignee, to carry out the following acts:</p> <p>(a) the recording, reproduction, broadcasting or rebroadcasting via radio or television broadcasting bodies, or the use by any medium, for profit, of such performances.</p> <p>(b) the fixation in a phonogram of his unfixed performances, and the reproduction of such fixations.</p> <p>(c) the wireless distribution or communication to the public of his performances.</p> <p>(d) the distribution to the public via the sale or any other transfer of ownership of the original or the copies of his performance which has not been the subject of a sale or other transfer of ownership authorized by the artist or his assignee or in accordance with this Law.</p> <p>For the purposes of this number, the first sale or other transfer of ownership in Chile or abroad shall exhaust the distribution rights nationally and internationally in respect of the transferred original or copy.</p>	<p>LAW 19,914 Art. 20, No. 8 D.O. November 4, 2003</p> <p>LAW 19,914 Art. 3, No. 10 D.O. November 19, 2003</p>
<p><b>CHAPTER II</b></p> <p><b>Phonograms</b></p> <p><b>Article 67.</b>– Anyone who uses phonograms or reproductions thereof for broadcasting on radio or television or any other form of communication to the public, shall be obliged to remunerate the performers and phonogram producers, with the amount to be set in accordance with the provisions of Article 100.</p> <p>The collection of royalty payments for phonogram performances referred to in this Article shall be made by the collective management body representing the performers and phonogram producers.</p>	<p>LAW 19,166 Art. 1, No. 8 D.O. September 17, 1992</p>

<p>The redistribution of the sums collected as royalty payments for the phonogram performances shall be as follows: 50 per cent for the performers and 50 per cent for the phonographic producer.</p> <p>The percentage that goes to the performers shall be broken down in accordance with the following rules:</p> <p>(a) two-thirds shall be paid to the performer, defined as the singer, the vocal ensemble or artist who figures prominently on the phonogram label or, if the recording is instrumental, the orchestra conductor.</p> <p>(b) one-third shall be paid, proportionate to their contribution to the phonogram, to the accompanying musicians and choir members.</p> <p>(c) where the performer is a vocal ensemble, its share, as defined by the provisions of subparagraph (a), shall be paid to the ensemble director, who shall divide it up equally among the members of the ensemble.</p>	
<p><b>Article 67 bis.</b>– The phonogram producer, in respect of his phonogram, and the artist, in respect of his performance, shall enjoy, respectively, the exclusive right to authorize or prohibit the making available to the public, by wire or wireless means, of the phonogram or the performances fixed on said phonogram, in such a way that members of the public may access them from a place and at a time individually chosen by them, without prior distribution of copies.</p>	<p>LAW 19,914 Art. 3, No. 11 D.O. November 19, 2003</p>
<p><b>Article 68.</b>– Producers of phonograms shall enjoy the right to authorize or prohibit the reproduction, rental, loan or other uses of their phonograms, including distribution to the public via sale, or any other transfer of ownership of the original or copies of their phonogram which have not been the subject of sale or other transfer of ownership authorized by them or in accordance with this Law.</p> <p>For the purposes of this Article, it shall be understood that the first sale or other transfer of ownership in Chile or abroad shall exhaust the right of distribution nationally or internationally in respect of the transferred original or copy.</p> <p>In addition to the title of the recorded work and the name of its author, the producer of phonograms must mention on the label of the phonographic record the name of the performer, the brand which identifies him and the year of publication. Where it is materially impossible to affix all of those indications directly on the reproduction, they must be affixed on the cover, jacket, box or letterhead which must accompany the reproduction.</p> <p><b>CHAPTER III</b> <b>Broadcasting bodies</b></p> <p><b>Article 69.</b>– Radio and television broadcasting bodies shall enjoy the right to authorize or prohibit the fixation and reproduction of their broadcasts.</p> <p>The rebroadcasting of the broadcasts of said bodies or their communication to the public on premises which the public cannot access freely, shall entitle the body to royalty payments, the amount of which shall be set by the Regulations.</p> <p>Radio or television broadcasting bodies may make ephemeral fixations of performances by an artist for the sole purpose of using them in a broadcast, for the number of times authorized. All copies shall be</p>	<p>LAW 19,166 Art. 1, No. 9 D.O. September 17, 1992</p> <p>LAW 19,914 Art. 3, No. 12 (a) and (b) D.O. November 19, 2003</p> <p>LAW 19,914 Art. 3, No. 12(c) D.O. November 19, 2003</p>

<p>destroyed immediately following the last authorized broadcast.</p>	
<p><b>CHAPTER IV</b> <b>Term of protection of related rights</b></p> <p><b>Article 70.</b>– The protection granted under this Title shall last 70 years, beginning from December 31 of the year of the publication of the phonograms in respect of producers of phonograms and 70 years after the publication of the performances in respect of performers.</p> <p>Failing such authorized publication within a period of 50 years beginning from the date of the fixation of the performance or phonogram, the protection shall last 70 years beginning from the end of the calendar year in which the performance, or phonogram was fixed.</p> <p>In the case of unfixed performances, the period of 70 years shall begin from the date of the performance.</p> <p>The protection of the broadcasting bodies' broadcasts shall last 50 years, beginning from December 31 of the year of broadcasting.</p> <p><b>Article 71.</b>– The holders of related rights may assign them, in full or in part, for any reason whatsoever. The said rights shall be transferable upon death.</p>	<p>LAW 19,914 Art. 3, No. 13 D.O. November 19, 2003</p>
<p><b>Title III</b></p> <p><b>Limitations and exceptions to copyright and related rights</b></p> <p><b>Article 71A.</b>– Where appropriate, the limitations and exceptions set out under this Title shall also apply to both copyright and related rights.</p>	<p>LAW 20,435 Art. 1, No. 8 D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 8 D.O. May 4, 2010</p>
<p><b>Article 71B.</b>– It shall be lawful to include in a work, without paying or obtaining the consent of the copyright holder, brief fragments of a protected work that has been lawfully disclosed, and such inclusion shall be in the form of a quotation or for the purposes of criticism, illustration, teaching or research, provided that the source, title and author are mentioned.</p> <p><b>Article 71C.</b>– It shall be lawful, without paying or obtaining the consent of the copyright holder, to perform any act of reproduction, adaptation, distribution or communication to the public, of a lawfully published work, if this is done for the benefit of persons with visual, hearing or other impairments that prevent them from accessing the work normally, provided that such use remains directly related to the impairment in question, and is carried out by means of an appropriate procedure or medium to overcome the impairment, for non-commercial</p>	<p>LAW 20,435 Art. 1, No. 8 D.O. May 4, 2010</p> <p>LAW 20,435</p>

<p>purposes.</p> <p>The copies shall specifically refer to the fact that they were made under the exception provided for in this Article and to the prohibition on their distribution and making available, on any basis, to persons who do not suffer from the same impairment.</p>	<p>Art. 1, No. 8 D.O. May 4, 2010</p>
<p><b>Article 71D.</b>– Courses taught in institutions of higher education, high schools and schools, may be annotated or compiled in any form by those for whom they are intended, but may not be published, in full or in part, without the authorization of their authors.</p> <p>Lectures, political speeches, pleadings or other works of a similar nature that have been delivered in public may be used freely and without payment for information purposes, with the author reserving the right to publish them in a separate collection.</p> <p><b>Article 71E.</b>– In business establishments that display and sell musical instruments, radios or televisions or any devices allowing the broadcasting of sounds or images, works or phonograms may be used freely and without payment, for the sole purpose of demonstrations for customers, provided that such demonstrations are made on the premises or in the part of the establishment set aside for this purpose, and on conditions that prevent their dissemination to the outside world.</p> <p>In the case of business establishments that sell computer hardware or software, lawfully obtained protected works may be used freely and without payment, for the sole purpose of making demonstrations for customers and on the same conditions as those set out in the foregoing subparagraph.</p> <p><b>Article 71F.</b> – The reproduction of architectural works through photography, cinema, television or any other similar process, as well as the publication of the corresponding photographs in newspapers, reviews, books and texts intended for educational purposes, shall be free and not subject to payment, provided that this is not in a complete or partial separate collection, without the author’s consent.</p> <p>Similarly, the reproduction through photography, drawing or any other process, of monuments, statues and, in general, those artistic works that adorn squares, avenues and public places on a permanent basis, shall be free and not subject to payment, provided that the publication and sale of the reproductions is lawful.</p>	<p>LAW 20435 Art. 1, No. 8 D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 8 D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 8 D.O. May 4, 2010</p>
<p><b>Article 71G.</b>– With regard to works of architecture, the author may not prevent the introduction of changes which the owner decides to make, but may object to being named as the author of the project.</p>	<p>LAW 20,435 Art. 1, No. 8</p>

<p><b>Article 71H.</b>– The obligation set out in Article 30 shall not apply to advertising or promotional films. Nor shall it be compulsory to mention the name of the author in advertising photographs.</p> <p>Similarly, the provisions of Article 37bis shall not apply to computer programs, where they are not the sole subject of the rental.</p>	<p>D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 8 D.O. May 4, 2010</p>
<p><b>Article 71I.</b>– Libraries and archives that are not operated for profit may, without being required to obtain authorization from the author or copyright holder or make any form of payment, reproduce a work that is not available on the market, in the following cases:</p> <p>(a) where the copy is in its permanent collection and this is necessary for the purposes of preserving said copy or replacing it in case of loss or deterioration, up to a maximum of two copies.</p> <p>(b) to replace a copy of another library or archive, which has been lost, destroyed or rendered unusable, up to a maximum of two copies.</p> <p>(c) to incorporate a copy into its permanent collection.</p> <p>For the purposes of this Article, the copy of the work must not have been available for sale to the public on the national or international market over the previous three years.</p> <p><b>Article 71J.</b>– Non-profit-making libraries and archives may, without having to seek the authorization of the author or copyright holder or make any form of payment, make copies of fragments of works that are found in their collections, at the request of a patron of the library or archive, solely for his personal use.</p> <p>The copies referred to in the foregoing subparagraph may only be made by the respective library or archive center.</p>	<p>LAW 20,435 Art. 1, No. 8 D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 8 D.O. May 4, 2010</p>
<p><b>Article 71K.</b>– Not-for-profit libraries or archive centers may, without having to seek the authorization of the author or copyright holder or make any form of payment, electronically reproduce works in their collection for free and simultaneous consultation by a reasonable number of users, only in the computer terminal networks of the respective institution and on conditions guaranteeing that the users are unable to make electronic copies of such reproductions.</p> <p><b>Article 71L.</b>– Not-for-profit libraries and archive centers may, without having to remunerate the copyright holder or obtain his authorization, arrange for the translation of works originally written in foreign languages and lawfully acquired, where at the end of a period of three years beginning from the first publication, or one year in the case of periodical publications, the copyright holder has not published the</p>	<p>LAW 20,435 Art. 1, No. 8 D.O. May 4, 2010</p>

<p>Spanish-language translation in Chile.</p> <p>The translation must be made for research or study purposes by the users of said libraries or archive centers, and may only be reproduced as partial quotations in the publications arising from said translations.</p>	<p>LAW 20,435 Art. 1, No. 8 D.O. May 4, 2010</p>
<p><b>Article 71M.</b>– It shall be lawful, without remunerating or seeking the authorization of the author, to reproduce and translate for educational purposes, within the framework of formal education or with the consent of the Ministry of Education, small fragments of works or isolated works of a three-dimensional, photographic or figurative nature, excluding school textbooks and university manuals, where such acts are performed solely to illustrate educational activities, insofar as this is warranted and is not for profit, provided that the works in question have already been disclosed and include the name of the author and the source, except in cases where this is impossible.</p> <p><b>Article 71N.</b>– The use of a work, including phonograms, within the family circle, in educational or charitable establishments, libraries, archive centers or museums, shall not be considered communication or public performance of the work, provided that such use is not for profit. In such cases, neither the authorization of the author or copyright holder or any payment shall be required.</p>	<p>LAW 20,435 Art. 1, No. 8 D.O. May 4, 2010</p> <p>LAW 20435 Art. 1, No. 8 D.O. May 4, 2010</p>
<p><b>Article 71O.</b>– The following activities relating to computer programs shall be permitted, without requiring the authorization of the author or copyright holder or any payment:</p> <p>(a) the adaptation or copying of a computer program performed by its holder, provided that such adaptation or copying is essential for its use, or for purposes of archiving or back-up, and does not serve other purposes.</p> <p>Adaptations obtained in this way may under no circumstances be transferred, without the prior authorization of the holder of the respective copyright; likewise, copies obtained in this manner may under no circumstances be transferred, unless this is done together with the computer program that was used as a master.</p> <p>(b) reverse engineering activities performed on a lawfully obtained copy of a computer program for the sole purpose of ensuring operational compatibility between computer programs or for research and development purposes. The information obtained in this manner may not be used to produce or market a similar computer program in violation of this Law or for any other copyright-infringing act.</p> <p>(c) activities performed on a lawfully obtained copy of a computer program for the sole purpose of testing, researching or correcting its functioning or the security of this or other programs, of the network or computer, as the case may be. The information derived from these</p>	<p>LAW 20,435 Art. 1, No. 8 D.O. May 4, 2010</p>

<p>activities may only be used for the above-mentioned purposes.</p> <p><b>Article 71P.</b>– It shall be permitted to make a temporary reproduction of a work, without having to pay the copyright holder or obtain his consent. Such temporary reproduction must be transitional or accessory; form an integral and essential part of a technological process, and have as its sole purpose lawful transmission in a network between third parties by means of an intermediary, or the lawful use of a work or other protected material, which has no economic value on its own.</p> <p><b>Article 71Q.</b>– It shall be permitted to engage in satire or parody that constitutes an artistic contribution setting it apart from the work to which it refers, its performance or the characterization of the performer.</p> <p><b>Article 71R.</b>– The incidental or exceptional use of a protected work shall be permitted for purposes of criticism, commentary, caricature, teaching, academic or research interest, provided that such use does not constitute disguised use of the protected work. The exception laid down in this Article shall not apply to audiovisual works of a documentary nature.</p> <p><b>Article 71S.</b>– It shall be permitted, without the consent of the author or copyright holder or the payment of any remuneration, to translate lawfully acquired works originally written in a foreign language, for purposes of personal use.</p> <p><b>Article 71T.</b>– It shall be permitted, without having to obtain the consent of the author or copyright holder or the payment of any remuneration, to reproduce or communicate to the public a work for the purposes of judicial, administrative or legislative proceedings.</p>	<p>LAW 20,435 Art. 1, No. 8 D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 8 D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 8 D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 8 D.O. May 4, 2010</p>
<p><b>TITLE IV GENERAL PROVISIONS</b></p>	<p>LAW 20435 Art. 1, No. 8 D.O. May 4, 2010</p>
<p><b>CHAPTER I Registration</b></p>	<p>LAW 20435 Art. 1, No. 8 D.O. May 4, 2010</p>
<p><b>Article 72.</b>– The copyright and related rights established by this Law shall be registered in the Intellectual Property Register. The Regulations shall further determine the duties and functions of the Registrar and the form and formalities of registration.</p>	
<p><b>Article 72bis.</b>– The holder of an economic right in a work may use, in the copy, the symbol © placed before the year of first publication and his name.</p> <p>Copies of phonograms or their packaging may display the symbol</p>	

<p>“(p)” followed by the year of first publication and the name of the producer.</p> <p>Natural persons or legal entities whose name appears as indicated in the foregoing subparagraphs shall be presumed to be the holders of the respective rights.</p> <p><b>Article 73.</b>– The full or partial transfer of the copyright or related rights, on any basis, shall be entered in the Register within a period of 60 days, beginning from the date of signature of the respective act or contract. The transfer shall be made by public deed or through a private instrument authorized before the notary.</p> <p>The termination of the contract giving rise to the transfer shall also be registered within a period of 60 days.</p> <p><b>Article 74.</b>– The editor shall only enjoy the rights granted by this Law once the respective contract has been entered in the Register established in Article 72, but non-fulfillment of this formality shall not deprive the author of the rights to which he is entitled in accordance with this Law or the respective contract.</p> <p><b>Article 75.</b>– When a work is entered in the Intellectual Property Register, a complete handwritten, printed or reproduced copy shall be deposited. The following rules shall apply in respect of non-literary works:</p> <p>(a) for works of painting, drawing, sculpture, engineering and architecture, the sketches, photographs or blueprints of the original which are necessary to identify it shall suffice, with the appropriate explanations;</p> <p>(b) for cinematographic works, it shall suffice to deposit a copy of the plot, staging and captions of the work;</p> <p>(c) for photographic works, it shall suffice to attach a copy of the photographs;</p> <p>(d) for phonograms, it shall suffice to deposit the copy of the record or magnetic tape containing it, unless national music is involved, in which case two copies shall be deposited;</p> <p>(e) for performances, it shall suffice to deposit one copy of the fixation. In the case of performances of national music, two copies of the fixation shall be deposited. The requirement to deposit these copies shall not apply where the performance is incorporated in a phonogram or broadcast registered in accordance with subparagraphs (d) or (f) of this Article;</p> <p>(f) for broadcasts, a copy of the radio or television broadcast shall be deposited. The requirement to deposit this copy shall not apply where it has been sent to the Information and Broadcasting Office of the National President’s Office, in accordance with the legal provisions in force; and</p> <p>(g) for musical works, a written score shall be required; however, in the case of symphonic works, a scoring for piano shall suffice. In the case of sung works, the lyrics shall be attached; and in the case of works of national music, two copies of the score shall be attached.</p>	<p>LAW 20,435 Art. 1, No. 9 D.O. May 4, 2010</p> <p>NOTE</p> <p>LAW 19,928 Art. 17, No. 1 D.O. January 31, 2004 LAW 19,928 Art. 17, No. 2 D.O. January 31, 2004</p> <p>LAW 19,928 Art. 17, No. 3 D.O. January</p>
---	---

<p>NOTE: Article 16 of LAW 19,928, published on January 31, 2004, provides that the Intellectual Property Register in which the legal deposit referred to in this Article is recorded shall send one of the copies of musical works to the National Library, for the purposes indicated.</p>	<p>31, 2004</p>
<p><b>Article 76.</b>– Entries in the Intellectual Property Register shall be subject to the payment of the following fees, reckoned as percentages according to a monthly accounting unit:  (a) engineering and architectural projects and computer programs, 35 per cent;  (b) cinematographic works, 40 per cent, and  (c) All other entries covered by this Law, 10 per cent.  All these fees shall be deposited in the sole current account of the Department of Libraries, Archives and Museums, under the responsibility and custodianship of the official appointed by that body to administer the Department of Intellectual Rights established under Article 90 of this Law.</p> <p><b>Article 77.</b>– For the purposes of the fees to be paid for entry in the Intellectual Property Register, the following shall be considered a single work:  (a) theatrical works, even if they contain more than one act; and  (b) the recorded phonographic record or magnetic tape, even if it contains more than one performance.</p> <p><b>CHAPTER II</b></p> <p><b>Actions and procedures</b></p> <p><b>Paragraph I</b></p> <p><b>Infringements of the provisions of this Law</b></p> <p><b>Article 78.</b>– Infringements of this Law and the Regulations thereunder that are not specifically provided for in Articles 79 ff. shall be punishable by a fine of five to 50 monthly accounting units.</p> <p><b>Paragraph II</b></p> <p><b>Intellectual property violations</b></p> <p><b>Article 79.</b>– The following shall be deemed to have committed intellectual property violations:</p>	<p>LAW 18,443 Sole Art., No. 2 D.O. October 17, 1985</p> <p>LAW 18,957 Sole Art., No. 9 D.O. March 5, 1990</p> <p>LAW 20,435 Art. 1, No. 10 D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 10 D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 10 D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 10 D.O. May 4, 2010</p>

<p>(a) anyone who, without being expressly authorized to do so, uses works owned by another that are protected by this Law, either unpublished or published, in any of the forms or by any of the means provided for in Article 18;</p> <p>(b) anyone who, without being expressly authorized to do so, uses the protected performances, productions or broadcasts of the holders of the related rights, for any of the purposes or by any of the means provided for under Title II;</p> <p>(c) anyone who falsifies or doctors a playlist;</p> <p>(d) anyone who falsifies data on the rendering of accounts referred to in Article 50.</p> <p>(e) anyone who, without the consent of the rights holder or the law, collects royalty payments or grants licenses in respect of works or performances or phonograms that are protected.</p> <p>The foregoing acts shall be punishable as follows:</p> <ol style="list-style-type: none"> <li>1. where the amount of the injury caused is less than four monthly accounting units, the punishment shall be detention at any level or a fine of five to 100 monthly accounting units.</li> <li>2. where the amount of the injury caused is equal to or greater than four monthly accounting units but less than 40 monthly accounting units, the punishment shall be minor detention at the minimum level and a fine of 20 to 500 monthly accounting units.</li> <li>3. where the amount of the injury caused is equal to or greater than 40 monthly accounting units, the punishment shall be minor detention at the minimum level and a fine of 50 to 1,000 monthly accounting units.</li> </ol>	<p>LAW 20,435 Art. 1, No. 10 D.O. May 4, 2010</p>
<p><b>Article 79bis.</b>– Anyone who falsifies a work protected by this Law, or who publishes, reproduces or distributes in a patently false manner the name of the authorized publisher, deleting or altering the name of the author or the title of the work, or maliciously altering the text thereof, shall be punishable by imprisonment in conditions of minimum security and a fine of 10 to 1,000 monthly accounting units.</p> <p><b>Article 80</b> – The following shall be deemed to have committed an intellectual property violation and shall be punishable by a fine of 25 to 500 monthly accounting units:</p> <p>(a) anyone who knowingly reproduces, distributes, makes available or communicates to the public a work belonging to the public domain or to the common cultural heritage under a name which is not that of the true author.</p>	<p>LAW 20,435 Art. 1. No. 10 D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 10 D.O. May 4, 2010</p>

<p>(b) anyone who claims or demands economic rights in works in the public domain or of the common cultural heritage.</p> <p>(c) anyone who requires payment for the performance or communication to the public of protected works and omits to prepare the respective playlists.</p>	
<p><b>Article 81.</b>– Anyone who holds to market, markets or rents directly to the public copies of works, performances or phonograms, regardless of the medium, which have been reproduced in breach of the provisions of this Law, shall be deemed to have committed an intellectual property violation and shall be punished by minor detention of the lowest degree and a fine of 50 to 800 monthly accounting units.</p> <p>Anyone who, for personal gain, manufactures, imports or admits into the country, holds or acquires for commercial distribution the copies referred to in the previous subparagraph shall be liable to punishment with minor detention at the intermediate or maximum level and a fine of 100 to 1,000 monthly accounting units.</p> <p><b>Article 82.</b>– In the event of a repeat offense of the violations covered by this Law, the maximum penalties for each violation shall apply. In such cases, the fine shall not be less than double the previous fine, up to a maximum amount of 2,000 monthly accounting units.</p> <p><b>Article 83.</b>– In the case of violations covered by Article 81, the penalty shall be increased by one level if the guilty party belongs to a group or meeting of persons for the purposes of committing said violations, without being liable for the offense of unlawful association.</p> <p>In the event of a violation of Article 293 of the Penal Code, a fine of 100 to 1,000 monthly accounting units shall also apply; and from 50 to 500 monthly accounting units in the event of a violation of Article 294 of the Penal Code.</p> <p><b>Article 84.</b>– Civil liability shall be incurred by anyone who, without the consent of the rights holder or the law, when he could or should have known that he would induce, permit, abet or conceal a violation of any copyright or related rights, performs one of the following acts:</p> <p>(a) deletes or alters any rights management information.</p> <p>(b) distributes, imports for distribution, issues, communicates or makes available to the public copies of works or phonograms, knowing that information on rights management has been deleted or altered without authorization.</p> <p>(c) distributes or imports for distribution rights management information, knowing that the rights management information has been altered without authorization.</p>	<p>LAW 20,435 Art. 1, No. 10 D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 10 D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 10 D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 10 D.O. May 4, 2010</p>

<p>Anyone who performs any of the acts described in the foregoing subparagraphs shall be punishable by a fine of 25 to 150 monthly accounting units.</p> <p><b>Article 85.</b>– For the purposes of the provisions of the foregoing Article, “rights management information” shall be defined as follows:</p> <p>(a) information identifying the work, performance or phonogram; the author of the work, the performer or the producer of the phonogram; or the holder of any right in the work, performance or phonogram.</p> <p>(b) information on the terms of use of the works, performance or phonogram.</p> <p>(c) any number or code representing such information, where any of these elements have been added to a copy of a work, performance or phonogram or have been displayed in relation to the communication or making available to the public of a work, performance or phonogram.</p>	<p>LAW 20,435 Art. 1, No. 10 D.O. May 4, 2010</p>
<p><b>Article 85A.</b>– The amount of the injury referred to under this Title shall be calculated on the basis of the legitimate retail value of the protected goods.</p> <p>In the case of protected goods with no legitimate retail value, the judge shall at his discretion determine the amount of the injury for the purposes of applying the penalty.</p> <p><b>Paragraph III</b></p> <p><b>Rules applicable to civil and penal procedure</b></p> <p><b>Article 85B.</b>– The holder of the rights recognized by this Law shall permit, without prejudice to other types of action he is entitled to take, action to request:</p> <p>(a) the cessation of the infringer’s unlawful activity.</p> <p>(b) compensation for the economic and moral damage suffered.</p> <p>(c) the publication of an extract of the verdict, at the defendant’s cost, by means of an announcement in a commercially circulated newspaper in the corresponding region of the injured party’s choice.</p> <p><b>Article 85C.</b>– The court, at the injured party’s request, shall order</p>	<p>LAW 20,435 Art. 1, No. 10 D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 10 D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 10 D.O. May 4, 2010</p>

<p>any copies that might have arisen out of any violation covered by this Law to be destroyed or withdrawn from sale.</p> <p>These copies may only be sold for charity by the court where the rights holder has given his consent. In this case, the court shall decree the necessary means to ensure that the copies are not put back on sale, ordering them to be marked and prohibiting the beneficiary from transferring them.</p>	<p>LAW 20,435 Art. 1, No. 10 D.O. May 4, 2010</p>
<p><b>Article 85D.</b>— The court may order the following precautionary measures at any stage of the trial:</p> <p>(a) the immediate suspension of the sale, circulation, display, performance or any other form of allegedly infringing exploitation;</p> <p>(b) a ban on signing acts and contracts concerning specific goods, including a ban on the advertising or promotion of the goods and services that are the subject of the alleged violation;</p> <p>(c) the attachment of the allegedly infringing copies;</p> <p>(d) the attachment or seizure of the materials, machinery and tools used to produce allegedly unlawful copies or commit the allegedly infringing activity, where this is necessary to prevent future infringements;</p> <p>(e) the removal or withdrawal of the apparatuses used for unauthorized public communication, unless the alleged infringer guarantees that he will not resume the infringing activity;</p> <p>(f) the appointment of one or more controllers;</p> <p>(g) the seizure of the proceeds from the recital, performance or reproduction, up to the amount corresponding to the royalty payments set on a discretionary basis by the court.</p> <p>With regard to matters not regulated by the foregoing subparagraph, the taking of such measures shall be governed by the general rules contained in Title V of Book II of the Code of Civil Procedure.</p> <p>The measures set out in this Article may be requested, without prejudice to the preliminary measures contained in Titles IV and V of Book II of the Code of Civil Procedure, as preliminary measures, provided that they are accompanied by supporting material providing reasonable proof of the existence of the right that has been claimed, the danger of an imminent infringement and the provision of a sufficient deposit, in accordance with Article 279 of the Code of Civil Procedure.</p>	<p>LAW 20,435 Art. 1, No. 10 D.O. May 4, 2010</p>
<p><b>Article 85E.</b>— When determining the economic injury, the court shall take into consideration, among other factors, the legitimate retail sales value of the goods concerned by the infringement.</p>	<p>LAW 20,435</p>

<p>The court may further sentence the infringer to pay the earnings he has obtained, which may be attributed to the infringement and which were not taken into consideration when calculating the injury.</p> <p>Regardless of the existence of economic injury, the court, for the purposes of ascertaining the moral injury, shall consider the circumstances of the infringement, the seriousness of the injury suffered, the damage to the author's reputation and the objective degree of unlawful dissemination of the work.</p> <p><b>Article 85F.</b>— In the process of compensation for damages, the court may order, at the request of one of the parties and without prejudice to any rights that may be claimed by third parties, the seizure and delivery to the rights holder of the proceeds from the recital, performance, reproduction or any other form of unlawful exploitation.</p> <p><b>Article 85G.</b>— Public prosecution shall be possible to denounce the violations punished by this Law.</p> <p><b>Article 85H.</b>— It shall be assumed, unless proven otherwise, that the copyright and related rights in a work shall subsist for a work or phonogram that was first published less than 70 years previously.</p> <p>Notwithstanding, the provisions of the foregoing subparagraph shall not apply in respect of these works and related issues that have passed into the public domain owing to the expiration of the term of protection, in accordance with this Law or previous laws.</p>	<p>Art. 1, No. 10 D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 10 D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 10 D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 10 D.O. May 4, 2010</p>
<p><b>Paragraph IV</b></p> <p><b>Special rules applicable to civil proceedings</b></p> <p><b>Article 85I.</b>— In civil proceedings, the court may order the alleged infringer(s) to hand over any information they may possess in respect of the other persons implicated in the infringement, as well as all the supporting material relating to the production and distribution channels for the infringing copies. The court may levy fines of one to 20 monthly accounting units on any persons who refuse to supply such information.</p> <p><b>Article 85J.</b>— The civil court judge who, in accordance with the general rules, tries the cases that arise under this Law, shall do so briefly and summarily.</p>	<p>LAW 20,435 Art. 1, No. 10 D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 10 D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 10 D.O. May 4, 2010</p>

	2010
<p><b>Article 85K.</b>– The holder of a right may request, once the respective infringement has been legally proven, that the compensation for the economic and moral injury suffered be replaced by a compensatory lump sum, which shall be determined by the court in relation to the seriousness of the infringement, and shall not be more than 2,000 monthly accounting units per infringement.</p> <p><b>CHAPTER III</b></p> <p><b>Limitation of liability for Internet service providers</b></p> <p><b>Article 85L.</b>– Without prejudice to the applicable general rules for civil liability, in the case of infringements of the rights protected by this Law committed by third parties, which arise through systems or networks controlled and operated by natural persons or legal entities that provide some of the services indicated in the following articles, the providers of such services shall not be obliged to compensate the injury, insofar as they comply with the terms provided for in the following articles to limit such liability, in accordance with the nature of the service provided. In such cases, the service providers shall only be subject to the preliminary and judicial measures referred to in Article 85R.</p> <p><b>Article 85M.</b>– Service providers for the transmission of data, routing and supply of connections shall not be held liable for the data transmitted, provided that the service provider:</p> <p>(a) neither modifies nor selects the content of the transmission. In this respect, the technological processing of the necessary material to facilitate transmission via the network, such as packet switching, shall not be deemed to constitute modification of the content;</p> <p>(b) does not initiate the transmission; and</p> <p>(c) does not select the recipients of the information.</p> <p>Such limitation of liability shall include the automatic storage or automatic, temporary copying of the data transmitted, which are technically necessary for the execution of the transmission, provided that such storage or automatic copying is not accessible to the public in general and is only stored for a reasonable amount of time required to make the communication.</p>	<p>LAW 20,435 Art. 1, No. 10 D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 11 D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 11 D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 11 D.O. May 4, 2010</p>
<p><b>Article 85N.</b>– Service providers who temporarily store data via a process of automatic storage shall not be held liable for the data stored, provided that the service provider:</p> <p>(a) respects the conditions for user access and the rules relating</p>	<p>LAW 20,435 Art. 1, No. 11 D.O. May 4,</p>

<p>to the updating of stored material that have been established by the provider of the original website, unless said rules are used by him to prevent or make unjustifiably difficult the temporary storage to which this Article refers;</p> <p>(b) does not interfere with the compatible, standardized technology used in the original website to obtain information on the on-line use of the material stored, where the use of said technologies complies with the law and is compatible with widely accepted industry standards;</p> <p>(c) does not modify the content during transmission to other users; and</p> <p>(d) Withdraws or quickly disables access to stored material which has been withdrawn or to which access has been disabled on the original website, once he receives notification in accordance with the procedure established in Article 85Q.</p>	<p>2010</p>
<p><b>Article 85O.</b>– Service providers who, at the request of a user, store, by themselves or through third parties, data in their network or system, or who perform search, cross-referencing or referencing services to an on-line site via information search engines, including hypertext links and directories, shall not be held liable for the data stored or references, provided that the provider:</p> <p>(a) does not have actual knowledge of the unlawful nature of the data;</p> <p>(b) does not receive any economic benefit that can be directly attributed to the infringing activity, in cases where he is entitled and able to control said activity;</p> <p>(c) publicly designates a representative for the service of the court orders referred to in the final subparagraph, in the form determined by the rules; and</p> <p>(d) withdraws or quickly disables access to the stored material, in accordance with the provisions of the following subparagraph.</p> <p>The service provider shall be deemed to have actual knowledge where a competent court of law, in accordance with the procedure established in Article 85R, has ordered the withdrawal of the data or the blocking of access thereto and the service provider, once he has been served with legal notice of said decision, fails to comply expeditiously therewith.</p>	<p>LAW 20,435 Art. 1, No. 11 D.O. May 4, 2010</p>
<p><b>Article 85P.</b>– To benefit from the limitations on liability established in the previous articles, a service provider must further:</p> <p>(a) have established general and public conditions under which he may make use of the power to terminate contracts with content providers who have been found guilty of repeated infringements of the rights</p>	<p>LAW 20,435 Art. 1, No. 11 D.O. May 4, 2010</p>

protected by this Law.

(b) avoid interfering in widely recognized and lawfully used technological means for protecting and managing rights in protected works;

(c) not have generated or selected the material or the recipients thereof;

Providers of search services, links or referral to an on-line site via information search devices shall be exempted from this obligation.

**Article 85Q.**— The service providers referred to in the previous articles shall not be bound, for the purposes of this Law, by the obligation to monitor the data which they transmit, store or reference or by the obligation to conduct active searches for facts or circumstances pointing to unlawful activities.

The provisions of the foregoing subparagraph shall be understood without prejudice to any activity ordered by the ordinary courts of law to investigate, detect and prosecute offenses or practices that constitute abusive exercise of the copyright or related rights recognized by this Law.

**Article 85R.**— In respect of infringements of the rights recognized by this Law that have been committed in or via networks or systems controlled or operated by or for service providers, the holder of the respective rights or his representative may request the measures indicated in Article 85S as a preliminary or judicial measure. Where measures are requested on a preliminary basis, and provided that there are serious grounds, they may be ordered without hearing the content provider, subject to the provision of a prior deposit by the petitioner to the satisfaction of the court. This petition shall be heard by the civil court judge of the domicile of the service provider, without prejudice to any criminal proceedings that may be brought.

For such purposes, the petition, in addition to meeting the requirements set out in numbers (1), (2) and (3) of Article 254 of the Code of Civil Procedure, shall indicate clearly:

(a) the allegedly infringed rights, with a specific indication of the rights and the infringement procedure;

(b) the infringing material; and

(c) the location of the infringing material in the respective networks or systems of the service provider.

Once compliance has been achieved with the foregoing subparagraph, the court shall order without delay the withdrawal or blocking of the infringing content. Said decision shall be notified to the respective service provider in the form of a writ, and to the petitioner in the daily bulletin.

LAW 20,435  
Art. 1, No. 11  
D.O. May 4,  
2010

LAW 20,435  
Art. 1, No. 11  
D.O. May 4,  
2010

<p>The content provider concerned may, without prejudice to other rights, petition the court which issues the order to set aside the measure for restriction of access to or withdrawal of material. In order to do so, he must submit a request that meets the same requirements set out in the second subparagraph, and must provide any additional supporting material justifying this petition and state that he expressly recognizes the jurisdiction of the court hearing the matter.</p> <p>These proceedings shall be handled briefly and summarily, and any appeals shall be granted solely with a stay of execution, and shall enjoy priority in terms of being heard and decided upon by a court of appeal.</p>	
<p><b>Article 85S.</b>– In cases where compliance has been achieved with the general requirements of Article 85P or the requirements laid down in Article 85N, in respect of the functions of transmission, routing or supply, the court may only order as a preliminary or judicial measure, the adoption of reasonable measures to block access to a specific infringing content which has been clearly identified by the petitioner and which does not imply the blocking of other, lawful contents, in accordance with the provisions of the second subparagraph of the previous Article.</p> <p>In cases where compliance has been achieved with the general requirements of Article 85P and the special requirements laid down in Articles 85N and 85O in respect of the functions mentioned in the said Articles, the court may only order the following preliminary or judicial measures:</p> <p>(a) the withdrawal of or disabling of access to the infringing material that has been clearly identified by the petitioner in accordance with the provisions of the second subparagraph of Article 85R;</p> <p>(b) the closure of certain accounts of the said service provider displaying repeated infringements, which have been clearly identified by the petitioner in accordance with the provisions of the second subparagraph of Article 85R, whose owner is using the system or network to perform an activity that infringes copyright and related rights.</p> <p>All these measures shall be ordered with due consideration for the relative burden on the service provider, users and subscribers, the possible injury to the holder of the copyright or related rights, the technical and effective feasibility of the measure, and the existence of other, less severe forms of compliance to ensure respect for the right claimed.</p> <p>These measures shall be ordered subject to notification to the service provider, in accordance with subparagraphs three, four and five of Article 85R, with the exception of injunctions aimed at ensuring the preservation of evidence or where other court injunctions are concerned that are not deemed to have an impact of the operation of the service provider’s system or network.</p>	<p>LAW 20,435 Art. 1, No. 11 D.O. May 4, 2010</p>

<p><b>Article 85T.</b>– The competent court, at the request of the rights holders who have initiated the proceedings established in the foregoing Article, shall order the handing-over of the information making it possible for the respective service provider to identify the alleged infringer. The handling of the data obtained in this manner shall be subject to the provisions of Law No. 19,628, on the Protection of Privacy.</p> <p><b>Article 85U.</b>– Anyone who knowingly provides false information relating to alleged infringements of the rights recognized in this Law must compensate any party concerned for the injury caused, if such injury arises from actions taken by the network service provider on the basis of said information, and shall be subject to the provisions of Article 197 of the Penal Code.</p> <p><b>Article 85V.</b>– Without prejudice to the prior provisions contained in this Chapter, Internet service providers must inform their users in writing of alleged infringements they receive, provided that the communication they receive meets the following requirements:</p> <p>(a) they are notified in electronic or other written form by the rights holder or his representative of the alleged infringement;</p> <p>(b) the rights holder or his representative must be domiciled or reside in Chile and, as the case may be, have sufficient authority to be sued, representing the rights holder;</p> <p>(c) the allegedly infringed rights have been identified, with a precise indication of the ownership of the rights and the type of infringement;</p> <p>(d) the infringing material is identified and its location is pinpointed in the networks or systems of the service provider to whom the communication is sent, via the URL or its equivalents;</p> <p>(e) it contains information allowing the service provider to identify the user who has supplied the allegedly infringing material.</p> <p>Internet service providers, once they have received a communication concerning compliance with the foregoing subparagraph, shall inform the allegedly infringing user of this situation, together with the supporting material provided by the rights holder or his representative, within five working days beginning from the receipt of the communication referred to.</p>	<p>LAW 20,435 Art. 1, No. 11 D.O. May 4, 2010</p> <p>LAW 20,435 Art. 1, No. 11 D.O. May 4, 2010</p> <p>LAW 20435 Art. 1, No. 11 D.O. May 4, 2010</p>
<p><b>CHAPTER IV</b> <b>General provisions</b></p> <p><b>Article 86.</b>– The economic rights which this Law grants to holders of copyright and related rights, especially the percentages referred to in Articles 50, 61, 62 and 67, may not be waived.</p>	<p>LAW 20,435 Art. 1, No. 11 D.O. May 4, 2010</p>

<p><b>Article 87.– REPEALED</b></p> <p><b>Article 88.–</b> The State, municipalities, official corporations, semi-public or autonomous institutions and other State legal entities shall hold the respective copyright in the works produced by their employees in the course of their duties.</p> <p>Notwithstanding, by decision of the title holder any of the said works may be made available, to form part of the common cultural heritage. This exception shall not apply to works developed in the context of the specific activity of public firms or in firms in which the State has a holding, where the work has a strategic interest for its purposes or where the law that has created it and regulates it expressly provides to this effect.</p> <p><b>Article 89.–</b> The rights granted by this Law to the holders of copyright or related rights shall not affect the protection afforded them under the Industrial Property Law and other legal provisions in force which have not been expressly repealed.</p> <p><b>Title IV INTELLECTUAL PROPERTY DEPARTMENT</b></p> <p><b>Article 90.–</b> An Intellectual Property Department is hereby established, which shall be responsible for the Intellectual Property Register and the other functions entrusted to it by the Regulations. This entity shall be attached to the Directorate for Libraries, Archives and Museums, and shall have the following organizational structure:</p> <ul style="list-style-type: none"> <li>Executive, professional and technical level</li> <li>1 Intellectual property director, lawyer Category 3</li> <li>1 Head of Section, lawyer, Category 5</li> <li>Administrative Level 1 Official, Category 5</li> <li>1 Official, Category 6</li> <li>1 Official, Category 7</li> <li>2 Officials, Grade 1</li> <li>Auxiliary staff</li> <li>1 Steward, Grade 6</li> <li>1 Auxiliary, Grade 8</li> </ul> <p>Any expenditure incurred by this structure during the current year shall be borne by the Current Expenditure Budget of the Secretariat and General Administration of the Ministry of Public Education.</p>	<p>LAW 19,166 Art. 1, No. 11 D.O. September 17, 1992</p> <p>LAW 20,435 Art. 1, No. 12 D.O. May 4, 2010</p>
<p><b>Title V COLLECTIVE MANAGEMENT OF COPYRIGHT AND RELATED</b></p>	<p>LAW 19,166</p>

<p><b>RIGHTS</b></p> <p><b>Article 91.</b>– The collective management of copyright and related rights may only be carried out by authorized entities, in accordance with the provisions of this Title, without prejudice to the provisions of the second subparagraph of Article 21.</p> <p>NOTE: Law 19,166 replaced the original Title V, which contained Articles 91 to 97.</p> <p><b>Article 92.</b>– Bodies for collective management of intellectual rights shall be set up as Chilean private law corporations, in accordance with the provisions of Title XXXIII of Book One of the Civil Code, and their corporate aim may only consist in performing the activities relating to administration, protection and collection of the intellectual rights referred to in this Title.</p> <p>Notwithstanding, the respective General Assembly of Members may stipulate, by absolute majority of the members, that up to 10 per cent of the amount collected and the balances from the company funds generated as a result of activities, be earmarked for the promotion of assistance-oriented activities or services for the benefit of its members and representatives, and efforts to stimulate national creativity, combined with other resources provided for similar purposes.</p> <p><b>Article 93.</b>– Without prejudice to the general provisions applicable to corporations and contained in Title XXXIII of Book One of the Civil Code, the statutes for the collective management bodies shall contain the following stipulations:</p> <p>(a) a description of the intellectual rights that the body proposes to administer;</p> <p>(b) the system for voting, which may be established on the basis of weighting criteria depending on the rights generated that place reasonable limits on plural voting, except in matters relating to sanctions to exclude partners, so as to avoid an unequal voting system;</p> <p>(c) the rules to which the systems for distribution of benefits are subject, including the percentage earmarked for administration expenses, which may under no circumstances exceed 30 per cent of the proceeds;</p> <p>(d) the destination of the assets, should the entity be liquidated, and other rules that govern the rights of the partners and those administered in such an event.</p>	<p>Art. 1, No. 12 D.O. September 17, 1992</p> <p>NOTE</p> <p>LAW 19,166 Art. 1, No. 12 D.O. September 17, 1992</p> <p>LAW 20,435 Art. 1, No. 13 D.O. May 4, 2010 LAW 19,166 Art. 1, No. 12 D.O. September 17, 1992</p>
<p><b>Article 94.</b>– To start any of the activities indicated in Article 92, the collective management bodies shall require the prior authorization of the Minister of Education, which shall be granted by means of a decision published in the Official Gazette.</p>	<p>LAW 19,166 Art. 1, No. 12 D.O. September 17, 1992</p>

<p><b>Article 95.</b>– The Minister of Education shall grant the authorization provided for in the foregoing Article within 180 days following the submission of the request, provided that the following conditions have been met:</p> <p>(a) the statutes of the requesting body meet the requirements laid down in this Title;</p> <p>(b) the requesting body represents at least 20 per cent of the rights holders who are Chilean nationals or foreigners residing in Chile who, in the country, constitute rights of the same kind of works or productions;</p> <p>(c) from the data provided and the information gathered, it can be seen that the requesting body meets the necessary conditions for compliance for ensuring the proper and effective administration of the rights throughout the national territory;</p> <p>If the Minister fails to speak out within the period indicated in the foregoing subparagraph, he shall be deemed to have granted his authorization.</p>	<p>LAW 19,166 Art. 1, No. 12 D.O. September 17, 1992</p>
<p><b>Article 96.</b>– Such authorization may be revoked by the Minister of Education in the event that a fact occurs or comes to light that could have led to the refusal of authorization, or if the management body clearly ceases to meet the obligations laid down in this Title. In such cases, the Ministry of Education, in the form prior to revocation, shall warn the respective management body so that, within the period set, which may not be less than 90 days, it remedies or corrects the points observed.</p> <p>Revocation shall take effect 90 days after the publication of the respective decision in the Official Gazette, unless the Minister of Education has set a shorter period, in the event of serious, qualified cases.</p> <p><b>Article 97.</b>– The collective management bodies shall always be obliged to accept the administration of the copyright and related intellectual property rights that have been entrusted to them in accordance with their goals or aims. They shall carry out said duty subject to the provisions of this Law and to their statutes.</p> <p>In the case of rights holders who are not affiliated to any authorized collective management body, the rights holders may be represented by natural persons or legal entities who or which have been entrusted with the task of safeguarding or collecting their royalty payments from copyright or related rights.</p>	<p>LAW 19,166 Art. 1, No. 12 D.O. September 17, 1992</p> <p>LAW 19,166 Art. 1, No. 12 D.O. September 17, 1992</p>
<p><b>Article 98.</b>– The distribution of the royalty payments collected by each collective management body shall take place between the proprietors of the works or productions used, under the system laid down in the statutes and regulations of the respective body.</p> <p>The distribution systems shall provide for the sharing of the proprietors of works and productions in the royalty payments collected, proportionate to their utilization.</p>	<p>LAW 19,166 Art. 1, No. 12 D.O. September 17, 1992</p>

<p><b>Article 99.</b>– The collective management bodies shall prepare on a yearly basis a general balance sheet as at December 31 of each year, and a report on the activities carried out during the previous financial year. Without prejudice to the audit rules established in the statutes, the balance sheet and the accounting documents shall be submitted for approval to external auditors who have been appointed by the General Assembly of members.</p> <p>The balance sheet, together with the report of the external auditors, shall be made available to the members at least 30 days in advance of the General Assembly at which they are to be adopted.</p> <p><b>Article 100.</b>– Collective management bodies shall be obliged to sign contracts, as requested, for the granting of non-exclusive authorization for the copyright and related rights they administer, in accordance with general rates determining the requisite fees for the use of their repertory.</p> <p>Collective management bodies may only refuse to grant the necessary authorizations for the use of their repertory in the event that the applicant does not offer sufficient guarantees for the payment of the corresponding fee.</p> <p>Fees shall be fixed by the management bodies through the administrative authority provided for in their Statutes, and shall come into force upon their publication in the Official Gazette.</p> <p>Collective management bodies may differentiate general fees depending on user category, and may set other alternative fee schedules or special tariffs by signing contracts with associations of users, which any user within the same category may choose. Fees set in accordance with this provision shall be published in the Official Gazette.</p> <p>Fees for users who are obliged to compile playlists, in accordance with the law or their respective licensing contracts, shall be structured in such a way that their application shall be connected to the use of the works, performances or phonograms of rights holders represented by the respective collective management body.</p> <p>Failure to compile the playlist or compilation of an incomplete or false playlist shall not entitle users to benefit from the application of the provisions of the previous subparagraph.</p> <p>Unless otherwise agreed, entertainment firms whose activity is based on the use of musical works and broadcasting companies shall be obliged to prepare playlists or lists of works used. Other users shall not be subject to the obligation to prepare playlists.</p> <p>The provisions of this Article shall not apply to the management of literary, dramatic, dramatico-musical, choreographic or pantomime works, the use of which shall be covered by the second subparagraph of Article 21, unless the respective body is responsible for the collective management of the rights in these works.</p>	<p>LAW 19,166 Art. 1, No. 12 D.O. September 17, 1992</p> <p>LAW 19,166 Art. 1, No. 12 D.O. September 17, 1992</p> <p>LAW 20435 Art. 1, No. 14 D.O. May 4, 2010</p>
<p><b>Article 100bis.</b>– Without prejudice to the provisions of the third subparagraph of the foregoing Article, associations with legal personality that represent users of copyright or related rights, who have not signed</p>	

an agreement with a collective management body as to the amount of the fee, shall submit any dispute to mediation, which shall be binding on both parties.

Mediation shall consist of a non-adversarial procedure aimed at ensuring, through direct communication between the parties and with the help of a mediator, that the parties can reach an extrajudicial solution to their dispute. Mediators must be registered in a Public Register of Intellectual Property Mediators and Arbitrators, which shall be kept by the National Culture and Arts Council. The mediators and arbitrators referred to in the following Article must have a professional qualification, with at least five years of professional experience and relevant experience in the field of intellectual property or economic activity. The procedures for entry in the Register, their form and characteristics, and the fees that may be charged by mediators and arbitrators, shall be fixed by means of regulations issued within the six months following publication of this Law in the Official Gazette, by the Ministry of Education and signed by that Ministry and by the Minister of Economy, Development and Tourism. The announcement referred to in the fourth subparagraph of this Article shall be published by the party challenging the fee.

The mediator shall be appointed by joint agreement of the parties. In the absence of an agreement, the mediator shall be appointed by the civil court judge for the domicile of the respective management body, at the request of the users' association or the management body, from among the mediators registered in the Public Register of Intellectual Property Mediators and Arbitrators, in accordance with the procedure for appointment of experts laid down in the Code of Civil Procedure. Such court appointments shall not be subject to appeal. In order to make such an appointment, the judge must ascertain, by means of the background information provided by the parties, that the tariff in question is not the current rate determined by agreement or by final arbitration decision, issued within the three years prior to the date of submission, and that the matter in dispute has not been subject to mediation or arbitration. Should the judge discover that any of these circumstances apply, he shall reject the request for mediation outright.

Once the mediator has been appointed, the judge shall order that those concerned be informed, by means of the publication of a notice in a national daily newspaper, that a specific rate has been submitted for mediation, so that they may become parties to the mediation, in accordance with the provisions of the second subparagraph of Article 21 of the Code of Civil Procedure.

The mediation process shall not last more than 60 days, beginning from the publication of the notice referred to in the foregoing subparagraph. The parties may, however, request an extension of this deadline by mutual agreement.

During the procedure, the mediator may call all of the hearings required for the mediation to be completed successfully.

Within ten days following notice of the appointment of the mediator, the parties must submit their reasoned proposals for a rate and the uses

LAW 20,435  
Art. 1, No. 15  
D.O. May 4,  
2010

<p>to which this rate applies, together with the relevant supporting material. Without prejudice to the foregoing, in the course of mediation, the parties may submit new proposals for rates.</p> <p>Where a party does not appear, fails to make a reasoned proposal for a rate or withdraws from the mediation, the rate proposal made by the other party shall be deemed accepted by virtue of the law and shall be regarded as a final decision. The mediator shall record the prior circumstances in the minutes.</p> <p>Where an agreement is reached on all or some of the issues submitted for mediation, this shall be recorded in an act of mediation which, after having been read by the participating parties, shall be signed by them and by the mediator. Copies shall then be given to each of the parties and to the mediator. Said act shall be regarded as a final decision. The rate adopted through this procedure, like the rate determined in accordance with the foregoing subparagraph, may not be modified by the respective management body or resubmitted to mediation, within the three years following the date of the act of mediation.</p> <p>If no agreement is reached within the original or extended time limit, the proceedings shall be deemed to have failed and a record thereof shall be drawn up and signed by both parties. In the event that one of the parties does not wish to or cannot sign, this shall be recorded by the mediator, who shall act as authenticating officer. The parties may then submit to the arbitration governed by the following Article.</p>	
<p><b>Article 100ter.</b>– In the event that the mediation fails completely or in part, the disputed point(s) shall be submitted to arbitration, at the request of any of the parties. To this end, any of the parties may, within 30 days as from the date of the record referred to in the final subparagraph of the foregoing Article, petition the civil court judge of the domicile of the respective management body, accompanied by the act of the prior mediation, for the purpose of initiating the procedure for appointment of the arbitration tribunal.</p> <p>Once the period established in the previous subparagraph has passed, the disputed rates may not be resubmitted for a new mediation process until three years have passed as from the date of the respective act of mediation.</p> <p>The arbitration tribunal shall be composed of three member arbitrators in law, governed by Articles 222ff of the Organic Code of Courts, one of whom shall be appointed by the users' association, another by the management body and a third by joint agreement of the parties. Failing an agreement or in the absence of an appointment by one of the parties, the appointment(s) shall be made by the civil court judge of the domicile of the respective management body; shall be subject to the procedure for the designation of experts laid down in the Code of Civil Procedure; and may not be opposed by the parties. The arbitrators must already be entered in the Register of Intellectual Property Mediators and Arbitrators.</p>	<p>LAW 20435 Art 1. No.15 D.O. May 4, 2010</p>

The tribunal shall set a date for hearing the parties, determine the notification mechanism that will be used to inform the parties of any resolutions or decisions adopted by it and its rules and procedures. It shall, in any case, give due consideration to hearing the parties, the mechanisms for receiving any evidence and supporting material they provide, and the way in which petitions shall be formulated.

The parties shall, at the hearing scheduled to that end, deliver in sealed envelopes their respective final reasoned proposals for rates and the uses to which the rates shall apply, together with the supporting evidence and material.

The unjustified failure to appear of one of the parties shall result in the acceptance of the opposing party's proposal, in which case the court shall deliver a judgment within 10 days. To this effect, the corresponding party shall attach, by the third day, supporting material which in the court judgment justifies his failure to appear.

In resolving the arbitration, consideration shall be given, among other criteria, to the category of user, the financial benefit obtained by the users in that category by exploiting the management body's repertory or register, the importance of the repertory in developing the activities of users in that category, and the previous rates agreed by the parties or fixed by means of a prior trial.

In the course of the proceedings, the court may call the parties to conciliation. Similarly, the parties may come to an agreement, putting an end to the proceedings merely by submitting the agreement reached with regard to fees. In this latter case, said agreement shall be regarded as a final decision.

When delivering its judgment, the court shall limit itself to opting exclusively for one of the proposals by the parties submitted in a sealed envelope. The judgment by the court shall be regarded as a final decision and shall constitute an alternative fee schedule that may be used by any user who so desires. To this effect, the collective management body shall make available to the public the ruling or agreement, as the case may be. Similarly, the court shall give a copy to the National Culture and Arts Council, which shall keep a public register of rulings and agreements.

The fee adopted via this procedure may not be modified by the respective management body or resubmitted for mediation or arbitration until three years have passed.

The court shall issue its ruling within 60 days following its constitution. Arbitration rulings may only be challenged through appeals to the Court of Cassation, in accordance with the provisions of Article 239 of the Organic Court Code, and appeals against refusal of leave to appeal, in accordance with Articles 545ff. of that same Code.

Appeals for rectification, clarification or amendment may also be lodged, for the sole purpose of specifying the necessary conditions for better application of the fee chosen by the court, without altering the substantive terms thereof. Said appeal shall be lodged within 15 days as

<p>from notification of the decision.</p> <p>The cost of the trial shall be borne by the party whose fee proposal is rejected by the court.</p> <p>During the arbitration proceedings, users may use the repertory or register of the collective management society whose fees are disputed, paying the fees they had been paying prior to the arbitration or, if they had not paid any such fees, the fees that correspond to the one set by the management body in accordance with the law. The difference between the fee paid and the final fee shall give rise to reassessments that shall be determined in the arbitration ruling.</p>	
<p><b>Article 101.</b>– Rulings arising from the application of the rules contained in this Title shall be communicated in accordance with the rules of Title XI of Book III of the Code of Civil Procedure.</p> <p><b>Article 102.</b>– Authorized management bodies shall legally represent their national and foreign partners and clients in any kind of administrative or judicial proceedings, merely by presenting authorized copies of the public document containing their statutes and the decision approving their functioning.</p> <p>For the purposes of this Article, each management body shall keep a public register of its foreign members and clients, which may be computerized, with an indication of the body to which they belong and the category of rights administered, in accordance with the respective type of works.</p> <p>Each management body shall send to the Ministry of Education an authenticated and notarized copy of the representation contracts, signed with foreign management bodies of the same type or types of works. These copies shall also be kept available at the domicile of the management body for consultation by any interested party.</p>	<p>LAW 19,166 Art. 1, No. 12 D.O. September 17, 1992</p> <p>LAW 19,166 Art. 1, No. 12 D.O. September 17, 1992</p>
<p><b>TITLE VI</b> <b>The Chilean Cultural Corporation</b></p> <p><b>Article 103.</b>– REPEALED</p> <p>NOTE: Law 19,166 repealed the former Title VI, which encompassed Articles 98 to 105.</p> <p><b>Article 104.</b>– REPEALED</p> <p><b>Article 105.</b>– REPEALED</p> <p><b>TITLE VII</b> <b>Final provisions and transitional articles</b></p>	<p>NOTE</p> <p>LAW 19,166 Art. 1, No. 13 D.O. September 17, 1992</p> <p>LAW 19,166 Art. 1, No. 13 D.O. September 17, 1992</p>

**Article 106.**– The Intellectual Property Decree-Law No. 345, of March 17, 1925, and Law No. 9,549, of January 21, 1950, are hereby repealed.

**Article 107.**– The President of the Republic shall issue the Regulations under this Law within a period of 180 days.

**Article 108.**– This Law shall come into force 180 days after its publication in the Official Gazette.

**Article 109.**– To enjoy the protection afforded by this Law, holders of related rights whose performances, broadcasts or recordings were published prior in the national territory to this Law, shall enter them in the Intellectual Property Register within a period of 180 days as from its publication. The registration to which this Article refers shall only require the presentation of a sworn statement, notwithstanding any evidence to the contrary.

**Article 110.**– The Small Copyright Department shall recast into a single text all of the provisions relating to fixation and the collection of small copyrights contained in Law No. 5,563 of January 10, 1935, in Decree with force of law No. 35/6,331, of November 19, 1942, and University Decree No. 1,070 of May 16, 1951, and their amendments. While the above-mentioned text is being issued, the Standing Commission for Small Copyright shall have all of the powers, functions and duties which were entrusted to the Small Copyright Department of the University of Chile.

**Article 111.**– Within a period of 90 days following the constitution of the Chilean Cultural Corporation set up under Title VI of this Law, the Executive Committee of this body shall submit to its Council for consideration draft rules of procedure for activities, which shall be prepared, as far as possible, in consultation with the Corporations represented on the Council.

**Article 112.**– The persons indicated in Article 1 of Law No. 15,478 who, as of October 27, 1966, were 65 years old and can prove that for at least 30 years they performed some of the activities referred to there, shall have a new time limit of 180 days to claim the benefits granted by transitional Article 1 of Law No. 16,571.

The Pension Fund for Private-sector Workers shall publish all necessary notices in the press to ensure broad dissemination of the precept contained in the foregoing subparagraph.”

I have accordingly approved and accepted this Law, for enactment and application as a Law of the Republic.

Santiago, August 28, 1970. – EDUARDO FREI MONTALVA. –

Máximo Pacheco Gómez, Minister of Education.	
--	--