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WORLD INTELLECTUAL PROPERTY ORGANIZATION
GENEVA

DIPLOMATIC CONFERENCE ON CERTAIN COPYRIGHT AND NEIGHBORING RIGHTS QUESTIONS

Geneva, December 2 to 20, 1996

AMENDMENTS TO ARTICLES 9, 10, 16, 17 AND 27 OF DRAFT TREATY N° 2

proposed by the Delegation of the United States of America

[Additions are indicated by underlining, deletions are indicated by ~~strike-through~~.]

Article 9: Right of Distribution and Right of Importation [Alternative E]

Changes to paragraph (1)(i), (1)(ii) and (2); no change to paragraph (2).

- (1) Performers shall enjoy the exclusive right of authorizing:
 - (i) the making available to the public of the original and permanent copies of their
 - Alternative A:* musical performances fixed in phonograms
 - Alternative B:* performances fixed in any mediumthrough sale or other transfer of ownership;

- (ii) the importation of the original and permanent copies of their
Alternative A: musical performances fixed in phonograms,
Alternative B: performances fixed in any medium,
even following any sale or other transfer of ownership of the original or permanent copies by or pursuant to authorization.
- (2) National legislation of a Contracting Party may provide that the right provided for in paragraph (1)(i) does not apply to distribution of the original or any permanent copy of a fixed performance that has been sold or the ownership of which has been otherwise transferred in that Contracting Party's territory by or pursuant to authorization.

Article 10: Right of Rental

These are in addition to changes previously proposed, and concern paragraphs (1) and (2).

- (1) Performers shall enjoy the exclusive right of authorizing the rental of the original and permanent copies of their
Alternative A: musical performances fixed in phonograms,
Alternative B: performances fixed in any medium,
even after distribution of them by or pursuant to authorization by the performer.
- (2) Notwithstanding the provisions of paragraph (1), a Contracting Party that, on April 15, 1994, had and continues to have in force a system of equitable remuneration of performers for the rental of permanent copies of their phonograms, may maintain that system for a period of 3 years from the entry into force of this Treaty.

Article 16: Right of Distribution and Right of Importation [Alternative A]

Changes to paragraph (1)(i), (1)(ii) and (2); no change to paragraph (2).

- (1) Performers shall enjoy the exclusive right of authorizing the making available to the public of the original and permanent copies of their
Alternative A: musical performances fixed in phonograms
Alternative B: performances fixed in any medium
through sale or other transfer of ownership.
- (2) A Contracting Party may provide that the right provided for in paragraph (1) does not apply to distribution after the first sale or other transfer of ownership of the original or permanent copies of performances by or pursuant to an authorization.

Article 17: Right of Rental

These are in addition to changes previously proposed, and concern paragraphs (1) and (2).

- (1) Producers of phonograms shall enjoy the exclusive right of authorizing the rental of the original and permanent copies of their phonograms, even after distribution of them by or pursuant to authorization by the producer.
- (2) Notwithstanding the provisions of paragraph (1), a Contracting Party that, on April 15, 1994, had and continues to have in force a system of equitable remuneration of producers of phonograms for the rental of permanent copies of their phonograms, may maintain that system for a period of 3 years from the entry into force of this Treaty.

Article 27: Special Provisions on Enforcement of Rights and the ANNEX

Delete Article 27 and the ANNEX.

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