Copyright

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INTELLECTUAL PROPERTY CONFERENCE OF STOCKHOLM, 1967

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III. United International Bureaux for the Protection of Intellectual Property (BIRPI)

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- A. C. von Zweigbergk, Director-General of the National Office for Patents and Registration.

GENERAL STUDIES

The "right of putting into circulation" in relation to copyright

A study of comparative law

Stig STRÖMHOLM Professor at the Faculty of Law, University of Uppsala

INTERNATIONAL ACTIVITIES

14th Session of the General Conference of Unesco

(Paris, October 25-November 30, 1966)

Declaration of the Principles of International Cultural Co-operation

Complying with the wish expressed by the Director-General of Unesco that the Declaration of the Principles of International Cultural Co-operation, adopted by the General Conference of Unesco on November 4, 1966, at its 14th Session, should be widely disseminated, we reproduce below the text of that Declaration. (Ed.)

The General Conference of the United Nations Educational, Scientific and Cultural Organization, met in Paris for its fourteenth session, this fourth day of November 1966, being the twentieth anniversary of the foundation of the Organization,

Recalling that the Constitution of the Organization declares that "since wars begin in the minds of men, it is in the minds of men that the defences of peace must be constructed" and that the peace must be founded, if it is not to fail, upon the intellectual and moral solidarity of mankind,

Recalling that the Constitution also states that the wide diffusion of culture and the education of humanity for justice and liberty and peace are indispensable to the dignity of man and constitute a sacred duty which all the nations must fulfil in a spirit of mutual assistance and concern,

Considering that the Organization's Member States, believing in the pursuit of truth and the free exchange of ideas and knowledge, have agreed and determined to develop and to increase the means of communication between their peoples,

Considering that, despite the technical advances which facilitate the development and dissemination of knowledge and ideas, ignorance of the way of life and customs of peoples still presents an obstacle to friendship among the nations, to peacefull co-operation and to the progress of mankind,

Taking account of the Universal Declaration of Human Rights, the Declaration of the Rights of the Child, the Declaration on the Granting of Independence to Colonial Countries and Peoples, the United Nations Declaration on the Elimination of all Forms of Racial Discrimination, the Declaration on the Promotion among Youth of the Ideals of Peace, Mutual Respect and Understanding between Peoples, and the Declaration on the Inadmissibility of Intervention in the Domestic Affairs of States and the Protection of their Independence and Sovereignty, proclaimed successively by the General Assembly of the United Nations,

Convinced by the experience of the Organization's first twenty years that, if international cultural co-operation is to be strengthened, its principles require to be affirmed,

Proclaims this Declaration of the principles of international cultural co-operation, to the end that governments, authorities, organizations, associations and institutions responsible for cultural activities may constantly be guided by these principles; and for the purpose, as set out in the Constitution of the Organization, of advancing, through the educational, scientific and cultural relations of the peoples of the world, the objectives of peace and welfare that are defined in the Charter of the United Nations:

Article I

- 1. Each culture has a dignity and value which must be respected and preserved.
- 2. Every people has the right and the duty to develop its culture.
- 3. In their rich variety and diversity, and in the reciprocal influences they exert on one another, all cultures form part of the common heritage belonging to all mankind.

Article II

Nations shall endeavour to develop the various branches of culture side by side and, as far as possible, simultaneously, so as to establish a harmonious balance between technical progress and the intellectual and moral advancement of mankind.

Article III

International cultural co-operation shall cover all aspects of intellectual and creative activities relating to education, science and culture.

Article IV

The aims of international cultural co-operation in its various forms, bilateral or multilateral, regional or universal, shall be:

- 1. To spread knowledge, to stimulate talent and to enrich cultures:
- 2. To develop peaceful relations and friendship among the peoples and bring about a better understanding of each other's way of life;
- 3. To contribute to the application of the principles set out in the United Nations Declarations that are recalled in the Preamble to this Declaration;
- 4. To enable everyone to have access to knowledge, to enjoy the arts and literature of all peoples, to share in advances made in science in all parts of the world and in the resulting benefits, and to contribute to the enrichment of cultural life;
- 5. To raise the level of the spiritual and material life of man in all parts of the world.

Article V

Cultural co-operation is a right and a duty for all peoples and all nations, which should share with one another their knowledge and skills.

Article VI

International co-operation, while promoting the enrichment of all cultures through its heneficent action, shall respect the distinctive character of each.

Article VII

- 1. Broad dissemination of ideas and knowledge, hased on the freest exchange and discussion, is essential to creative activity, the pursuit of truth and the development of the personality.
- 2. In cultural co-operation, stress shall he laid on ideas and values conducive to the creation of a climate of friendship and peace. Any mark of hostility in attitudes and in expression of opinion shall he avoided. Every effort shall he made, in presenting and disseminating information, to ensure its authenticity.

Article VIII

Cultural co-operation shall he carried on for the mutual henefit of all the nations practising it. Exchanges to which it gives rise shall he arranged in a spirit of hroad reciprocity.

Article IX

Cultural co-operation shall contribute to the establishment of stable, long-term relations between peoples, which should he subjected as little as possible to the strains which may arise in international life.

Article X

Cultural co-operation shall he specially concerned with the moral and intellectual education of young people in a spirit of friendship, international understanding and peace and shall foster awareness among States of the need to stimulate talent and promote the training of the rising generations in the most varied sectors.

Article XI

- 1. In their cultural relations, States shall hear in mind the principles of the United Nations. In seeking to achieve international co-operation, they shall respect the sovereign equality of States and shall refrain from intervention in matters which are essentially within the domestic jurisdiction of any State.
- 2. The principles of this Declaration shall he applied with due regard for human rights and fundamental freedoms.

NEWS ITEMS

FEDERAL REPUBLIC OF GERMANY

Inauguration of the New Headquarters of the Max-Planck-Institute for Foreign and International Law of Patents, Copyright and Competition, Munich

The Max-Planck-Institut für ausländisches und internationales Patent-, Urheber- und Wettbewerbsrecht (Max-Planck-Institute for Foreign and International Law of Patents, Copyright and Competition), and the Institut für gewerblichen Rechtsschutz und Urheberrecht der Universität München (Institute for Industrial Property and Copyright of the University of Munich) inaugurated their new headquarters in Munich, Siehertstrasse 3, on October 17, 1967.

The ceremony was attended by several hundred guests coming from some twenty different countries. Professor G. H. C. Bodenhausen, Director of BIRPI, was among the speakers who greeted the new Max-Planck-Institute and its Director, Professor Eugen Ulmer.

The Institute's new headquarters include spacious facilities for its lihrary which constitutes an exceptionally rich collection of works on intellectual property subjects. The collection, containing approximately 15,000 volumes, is organized into sections by countries, and each section is subdivided according to the main hranches of the law of intellectual property.

The Institute has some 50 collahorators, half of them with academic degrees. In addition to its scientific research tasks, the Institute lays great emphasis on the training of a new generation of scientists in the field of intellectual property law. In this connection, the Institute accepts also foreign scientists as guest collahorators.

The inauguration was followed by lectures given by Professor Eugen Ulmer, Professor Friedrich-Karl Beier, Miss Barhara Ringer, and Mr. Gert Kolle.

OBITUARY

Jean Vilbois

It is not without emotion that the writer of these lines is performing the task suggested to him by Professor Bodenhausen in the name of BIRPI. His task is not simply to review the works of an author whose name and works, alone, are familiar to him, to approve unreservedly or to criticize the opinions of that author; he must render homage to the memory of a man who was his friend.

It has been many years since I first shook the hand of Jean Vilbois. It was at Lucerne, in the spring of 1948, when the International Literary and Artistic Association (ALAI) taking up its activities again after the somber years of a merciless war — was holding a seminar prior to the Brussels Conference. And, as the result of a strange symmetry, the last stage in the cordial, trusting relationship I have always had with him had as its setting the city of Stockholm, where the Conference of Revision of the Berne Convention was held last summer. I shall never forget one evening in June when, in the company of Mr. Marcel Boutet. President of the ALAI, I saw him off at the railway station: he had just exhausted the last of his strength in the service of the French Delegation, for whom he acted as advisor; his health had hecome steadily worse and no longer allowed him to continue to offer the assistance to which he had wholeheartedly devoted both his intellect and his experience, despite fatigue and suffering. I shall remain haunted by a smile which, when the train started, was full of affection and, at the same time, regret and a horrible apprehension.

The entire life of this lost friend was dominated by copyright; he sacrificed himself unceasingly to copyright, with as much enthusiasm as selflessness. His vocation came to him very early in life, for, when he was a child, the problems raised by the protection of the works of the mind were often brought up in his presence by his father, who, in one of the provinces of the North of France, was the delegate of a large society of authors. It is not, then, surprising that, in 1928, having finished his law studies, which had been interrupted by World War I during the course of which he was seriously wounded at Mont Kemmel, he defended, before the Paris Faculty of Law, a widely remarked thesis on the subject "le domaine public payant"! In private, he was quite willing to describe the work that went into the preparation of his thesis and the ceremony of defense: the members of his jury were struck by the fullness of his information, the clarity of his statements, the originality and correctness of his views. More than once, I was present when he expressed his regret that circumstances had not permitted him to take the competitive "agrégation" examination. His professors had advised him to prepare himself for the teaching profession, for which he was naturally gifted as he so loved to study, explain and convince. At least his thesis did not add to the collection of papers that are stacked away on the dusty shelves of a Faculty library, never to have the comfort of a compassionate glance. It is just as interesting today as it used to be, for the problem — which was new at the time he so masterfully dealt with it — has never ceased to be current. In fact, the institution he described and defended was almost accepted by the French legislature, a few years before the Parliament took up the discussion of the bill which became the Law of March 11, 1957.

This work helped to decide the destiny of our friend: the chairman of the Intellectual Property Committee, Professor Jean Escarra, who, as early as 1945, had been entrusted with the preparation of a law on literary and artistic property, called for his assistance. From that time on, no one was as faithful as he to the meetings which became increasingly frequent over a period of twelve years: many are the provisions which, if not drafted by his hand, at least drew inspiration from his observations and advice. Numerous committees, meeting under the auspices of the Ministry of National Education or the Ministry of Arts and Letters, benefited from his valuable counsel. It was thus that he was instrumental in setting up the Caisse Nationale des Lettres (National Letters Fund) for the benefit of which an extension of copyright in respect of literary works was arranged: the idea behind the championing and exulting of the domaine public payant thus made its way in a different form.

It was, however, within the framework of the International Literary and Artistic Association that he demonstrated the full extent of his abilities. The secretariat, which he was in charge of for many years, provided him with a challenge which was equal to his capacities. He was not content to perform with exactness the daily tasks involved and to be constantly willing to serve those who sought counsel and information. His duties led him to attend most of the successive meetings of committees of experts and international conferences convened over the past twenty-odd years, whether in order to elaborate the Geneva Convention, revise the Berne Convention, or prepare the Rome Conference concerning neighboring rights or that of the Hague Agreement concerning "designs." Gifted with an impressive memory, he took in all of the subtleties of the debates. In fact, there is no denying that, in France, no one else had such a vast knowledge of the field of copyright. On recognition of this, he was awarded the Cross of Knight of the Legion of Honor and the rosette of Officer of the Order of Arts and Letters. His close friends used to urge him to put his knowledge and experience down in writing, but he was modest and - no doubt out of shyness — hated to be in the limelight. Everyone who knew him will regret losing him, for it was not enough for him to accumulate information: in the silence of his own office, he reflected at

such length that no question caught him unawares. With courage, and sometimes with an impetuosity indicative of a sort of religion concerning copyright, he defended his opinions, which he continued to hold despite the passing of time. All those who have had the privilege of conversing with him will remember his remarks, the originality of which was occasionally tinged with biting wit. He loved argument and readily cultivated a spirit of contradiction, in fact so much so that his friends used to amuse themselves by maintaining the opposite of what they really thought, so they could admit he was right while not being wrong themselves. This reflective man, who at times took on a solitary air, enjoyed the pleasures

of conversation and social life: he could appreciate a good wine, the color of a flower, or the piquancy of a witty remark, just as much as the subjects of learned discourse.

His silhouette and personality were familiar to many of the readers of this review, for he had become their friend. All of them will unite in rendering homage to the memory of a good man who combined the erudition of intellectual property with conscience and an unwavering devotion to the causes he felt were just.

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BOOK REVIEWS

Les conventions internationales [The International Conventions], by André Françon. Extr. Juris-Classeur de droit international, Droit international commercial, Propriété littéraire et artistique, Fascicule 563-B, No. 2, p. 28. Paris, 1966.

There are many works dealing, among other questions in the field of copyright, with the protection granted to authors at the international level. However, it is not easy to find such texts where the essential principles of protection are set forth so clearly and at the same time so concisely as in this case. Let us also add that the author of this excellent work did not merely bring out and comment the principles governing the protection under the provisions of the Berne Convention and the Universal Copyright Convention; he also made a comparison between the two. A separate chapter is devoted to Panamerican conventions and to the Rome Convention on neighbouring rights.

This work will undoubtedly prove to be very useful to all those who wish to get acquainted with the spirit and the machinery of the international copyright protection.

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Urheherrecht der Sowjetunion — Einführung und Quellen [Copyright Law in the Soviet Union — Introduction and sources], by Dietrich A. Loeber. A volume of IX + 212 pages, 24 × 17 cm. Alfred Metzner Verlag, Frankfurt/Main-Berlin, 1966.

As indicated in the title itself, this book consists of two parts. The first gives a detailed survey of basic elements in this matter. After a general comment, the author examines in turn the following aspects of the Soviet copyright law: protected works, owner of copyright, author's rights, limits set to these rights, droit moral, term of protection, legal succession, consequences of infringements of copyright, relation to trademark law, and neighbouring rights.

The second part includes a detailed list of laws and regulations, a list of international agreements concluded by the Soviet Union, a collection of summarized court decisions, including not only the decisions of Soviet high courts and of the Moscow city court, but also a certain number of cases laid before foreign courts. A bibliographical list contains, in two separate parts, books published in the Soviet Union and abroad, as well as other sources of law (official gazettes, collections of laws, collections of court decisions, legal periodicals). A selection of legal texts (reproduced both in the original and in German translation) is added at the end of the book.

In his introductory remarks, the author points out that the copyright law in 15 federal republics is essentially the same, notwithstanding the specific features in each of them. On the other hand, the number of legal texts dealing with copyright is increased by laws and regulations in the field of labour and administrative law. In his opinion, one of the most important peculiarities of the Soviet copyright law is that it includes certain elements of labour law. Another peculiarity of that law is that it is to a large extent penetrated by administrative elements; that is due to a highly developed system of centralized planninig in the field of literature, arts and sciences.

When speaking of the international aspects of the Soviet copyright law, the author emphasizes that the works of a Soviet citizen are also protected abroad, while the works of foreign authors are given protection only if they have been first published in the Soviet Union or, when unpublished, if they are situated therein.

The anthor does not agree with a statement according to which the Soviet literature on copyright law is relatively small. His own book is an important contribution to the foreign literature on the subject. M. S.

Pneumatiki Idioktesia [Law of Copyright], by Georges Koumantos. A volume of 347 pages, 24 × 17 cm. Athens, 1967.

The only purpose of this brief information is to draw the attention of our readers to the existence of an important new work on copyright in Greece. The author of this work is already well known, not only in his country hut also abroad, by several articles published in international reviews.

A table of contents and a brief summary in French have been added to the book, so that its subject matter does not remain entirely unknown to those who are not able to appraise its value by reading the original.

It is important to emphasize that one chapter of the book deals with the sources of copyright and the international protection. The major part of it is devoted to the two international conventions for the protection of copyright (the Berne Convention and the Universal Copyright Convention).

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Copyright Thought in Continental Europe: its Development, Legal Theories and Philosophy — A selected and annotated bibliography, by Francis J. Kase. A volume of X + 85 pages, 28 × 21 cm. Fred B. Rothman & Co., South Hackensack, N. J., 1967.

According to the author's Preface, the purpose of this hibliography is to provide a list of works on the development of copyright thinking on the European continent, with particular reference to Germany and France. In actual fact, it is more than that. In the introduction dealing with the concept of copyright, the author also gives a summarized outline of the ten leading theories in this field.

The main body of the hook is divided into two chapters, the first one containing monographs, and the second articles. Each title is followed by a brief note on the content of the work. There is also a list of the bibliographies consulted, as well as an index of authors at the end of the hook.

In her Foreword to this hook, Miss Barbara A. Ringer writes: "For an American lawyer or copyright scholar, a careful reading of Frank Kase's monumental hibliography is likely to prove an unsettling as well as a rewarding experience." One should add that it will be equally useful to European readers.

M. S.

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Le contrat d'édition musicale [The Music Publishing Agreement], by Nicolas Rouart (doctoral thesis). One volume of 311 pages, 26×20 cm. University of Paris. Faculty of Law and Economics, Paris, 1967 (roneographed text).

The music publishing agreement occupies a very special place in the field of contracts relating to the various forms of using intellectual works. This is not only because of its special nature as regards publishing agreements in general hut also because it includes accessory stipulations concerning so-called subsidiary rights. In the opinion of the author of this dissertation, such an agreement is in actual fact an assignment. He therefore considers that, strictly speaking, this agreement is not confined within the framework of articles grouped together in Chapter II of the French Law of March 11, 1957, under the heading "Publishing Contracts." However, as the same legislative provisions must be applied equally to musical works and to literary works, the author was obliged to hase his study on these provisions.

The first part of his study deals with the relations hetween the composer and the publisher (definition, conditions of the contract's validity, obligations of the publisher and of the author, termination of contract). The second part, devoted to the publisher's relations with the users, is much more specific but also relates, to a large extent, to the structure of the societies of authors existing in France (SACEM, SACD, BIEM, SDRM), as well as to contracts for the hire of orchestral materials.

In conclusion, the author stresses that the role of music publishers has evolved considerably during the course of the past few decades. In contrast to the Ninetheenth Century when radio and phonograph records

were still unknown and printing had to he done on a large enough scale to supply the greatest possible number of orchestras, it is now quite sufficient to print 50 copies provided that a publicity effort is made which will ensure the quasi-mechanical dissemination of the work to the general public.

On the other hand, the music publisher is able to obtain a substantial portion of the amounts paid hy record manufacturers as mechanical reproduction rights.

M. S.

CALENDAR

Meetings of BIRPI

Date and Place	Title	Object	Invitations to Participate	Observers Invited
1967				
December 18 to 21, 1967 Geneva	Interunion Coordination Committee (5 ^{1h} Session)	Program and Bndget of BIRPI	Belgium, Brazil, Ceylon, Czechoslovakia, Denmark, France, Germany (Fed. Rep.), Hungary, India, Italy, Japan, Mexico, Morocco, Netherlands, Nigeria, Portngal, Rumania, Spain, Sweden, Switzerland, Union of Soviet Socialist Republics, United Kingdom. United States of America, Yugoslavia	All other Member States of the Paris Union or of the Berne Union
December 18 to 21, 1967 Geneva	Conference of Representa- tives of the International Union for the Protection of Industrial Property (2nd Session)	Program and Budget (Paris Union)	All Member States of the Paris Union	United Nations; Council of Europe; International Patent Institute
December 18 to 21, 1967 Geneva	Executive Committee of the Conference of Representa- tives of the Paris Union (3rd Session)	Program and Budget (Paris Union)	Ceylon, Czechoslovakia, France, Germany (Fed. Rep.), Hungary, Italy, Japan, Mexico, Morocco, Netherlands, Nigeria, Portngal, Spain, Sweden, Switzerland, Union of Soviet Socialist Republics, United Kingdom, United States of America, Yngoslavia	All other Member States of the Paris
December 20 and 21, 1967 Geneva	Council of the Lisbon Union for the Protection of Appellations of Origin and their International Registration (2 nd Session)	Annnal Meeting	All Member States of the Lishon Union	All other Member States of the Pari Union
1968				
March 25 to 29 1968 Geneva	Working Group — Patent Cooperation Treaty (PCT)	Questions concerning seaching, etc.	To he announced later	To he announced later
June 17 to 21 1968 Geneva	Working Group Patent Cooperation Treaty (PCT)	Questions concerning formalities, etc.	To be announced later	To be announced later

Date and Place	Title	Object	Invitations to Participate	Ohservers Invited
September 24 to 27 1968 Geneva	Interunion Coordination Committee (6th Session)	Program and Budget of BIRPI	To be annonnced later	To be announced later
October 2 to 8, 1968 Locarno	Diplomatic Conference	Adoption of a Special Agreement concerning the International Classification of Industrial Designs	All Member States of the Paris Union	To be announced later
November 4 to 12 1968 Geneva	Committee of Experts — Patent Cooperation Treaty (PCT)	New Draft Treaty	To be announced later	To be announced later

Meetings of Other International Organizations Concerned with Intellectual Property

Place	Date	Organization	Title
1967			
The Hague	December 4 to 6, 1967	International Patent Institute (IIB)	94th Session of the Administrative Council
1968			
Bnenos Aires	April 15 to 19, 1968	International Association for the Protection of Industrial Property (IAPIP)	Presidents' Conference
Mnnich	April 22 to 26, 1968	Committee for International Cooperation in Informa- tion Retrieval among Examining Patent Offices (ICIREPAT)	Advisory Board for Cooperative Systems — Standing Committees I and II
Amsterdam	June 9 to 15, 1968	International Publishers Association (IPA)	Congress
Vienna	June 24 to 29, 1968	International Confederation of Societies of Authors and Composers (CISAC)	Congress
Tokyo	October 21 to November 1, 1968	Committee for International Cooperation in Informa- tion Retrieval among Examining Patent Offices (ICIREPAT)	8th Annual Meeting
Lima	December 2 to 6, 1968	Inter-American Association of Industrial Property (ASIPI)	Congress

