

# Copyright

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International Bureaux for the Protection  
of Intellectual Property (BIRPI)

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# ADMINISTRATIVE BODIES

## World Intellectual Property Organization

### I. General Assembly

#### First Ordinary Session

(Geneva, September 21 to 28, 1970)

#### Note\*

**Introduction.** The General Assembly of WIPO (hereinafter called "the General Assembly") held its first ordinary session at Geneva from September 21 to 28, 1970.

The following States, members of the General Assembly at the opening of the session, were represented: Belgium, Brazil, Bulgaria, Canada, Cuba, Czechoslovakia, Denmark, Finland, France, Germany (Federal Republic), Greece, Holy See, Hungary, Ireland, Israel, Italy, Ivory Coast, Japan, Luxembourg, Malta, Morocco, Netherlands, Norway, Poland, Portugal, Romania, South Africa, Soviet Union, Spain, Sweden, Switzerland, Syrian Arab Republic, Tunisia, Turkey, United Kingdom, United States of America, Upper Volta, Yugoslavia (38).

The other States and organizations mentioned in the list of participants (see page 245, below) were represented in an observer capacity.

The Delegations of Bulgaria, Cuba, Czechoslovakia, Hungary, Poland, Romania and the Soviet Union protested against the fact that the German Democratic Republic had not been invited to the General Assembly and the Conference of WIPO and the Assemblies of the Paris, Berne and Nice Unions.

After adopting its rules of procedure, the General Assembly elected Mr. E. Armitage (United Kingdom) as Chairman and Mr. E. M. Braderman (United States of America) and Mr. K. Coulibaly (Senegal) as Vice-Chairmen.

**Director General.** The WIPO Coordination Committee unanimously nominated and the General Assembly unanimously appointed Professor G. H. C. Bodenhausen as first Director General of WIPO.

**Budget.** The General Assembly adopted the budget of expenses common to the Unions. This budget and the budgets of expenses proper to each Union amount, together, to slightly over ten million Swiss francs for the year 1971.

**Financial Regulations; Auditors.** The General Assembly adopted the financial regulations of WIPO and designated Switzerland to audit the accounts of WIPO.

**Administration of Certain International Agreements.** The General Assembly approved the participation of WIPO in the

administration of the International (Rome) Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (the so-called "Neighboring Rights Convention") and of the Convention for the Protection of New Varieties of Plants ("UPOV").

**Relations with the United Nations.** As far as the question of establishing closer relations with the United Nations is concerned, the following Resolution was unanimously adopted:

"The General Assembly and the Conference of the World Intellectual Property Organization (WIPO):

"*Considering* that the objectives of the World Intellectual Property Organization include responsibility for an important sector of international cooperation in the economic and cultural fields, with particular reference to the needs of developing countries,

"*Considering* that the effective fulfillment of that responsibility, particularly in respect of developing countries, requires appropriate cooperation and coordination between the World Intellectual Property Organization on the one hand and the United Nations and the organizations of the United Nations system on the other hand, and

"*Considering* that such cooperation and coordination would assist developing countries in the planning and formulation of technical assistance projects under the WIPO legal-technical assistance program or in the context of Chapter IV of the Patent Cooperation Treaty, and in ensuring that such projects are financed and executed,

"*Invite* the Director General of the World Intellectual Property Organization to examine, with the possible assistance of consultants, working groups of experts or such other advice as he may deem desirable, the means of securing the most appropriate cooperation and coordination between the World Intellectual Property Organization on the one hand and the United Nations and the organizations of the United Nations system on the other hand, including the possibility and desirability of entering into an agreement under Articles 57 and 63 of the Charter of the United Nations, and to report to the next ordinary sessions of the General Assembly and the Conference of the World Intellectual Property Organization."

**United Nations Development Program.** In connection with the mandate of the International Bureau flowing from Chapter IV of the Patent Cooperation Treaty and the Resolution of

\* This Note was prepared by the International Bureau on the basis of the documents of the session.

the Washington Diplomatic Conference adopting that Treaty, the following Resolution was unanimously adopted:

“The General Assembly and the Conference of the World Intellectual Property Organization (WIPO),

“*Noting* that the Assembly, the Conference of Representatives and the Executive Committee of the International (Paris) Union for the Protection of Industrial Property have established an Interim Committee for Technical Assistance in accordance with the Resolution of the Washington Diplomatic Conference on the Patent Cooperation Treaty, 1970,

“*Emphasizing* the need to continue and strengthen the work undertaken by the United International Bureaux for the Protection of Intellectual Property (BIRPI) under its Technical Assistance Program,

“*Instruct* the Director General of the World Intellectual Property Organization to inform the Administrator of the United Nations Development Program of the willingness of the World Intellectual Property Organization to act as an executing agency or as a subcontractor in technical assistance projects within the field of the promotion of the protection of intellectual property, with particular reference to facilitating the transfer of technology to developing countries;

“*Authorize* the Director General of the World Intellectual Property Organization, with the advice of the Interim Committee for Technical Assistance, to negotiate with the Administrator of the United Nations Development Program and with other appropriate intergovernmental organizations such general agreements as may be desirable to facilitate the

financing and execution of technical assistance projects requested by Governments within the context of the Patent Cooperation Treaty and of the Convention Establishing the World Intellectual Property Organization;

“*Recommend* that the Interim Committee for Technical Assistance give early consideration to pilot technical assistance projects requested by individual Governments or by groups of Governments within the context of the Patent Cooperation Treaty with a view to their commencement before the formal entry into force of the Treaty.”

**Working Languages.** The General Assembly determined the working languages of the International Bureau in relation to the documents of the Secretariat, interpretation in meetings, and the correspondence and internal work of the Secretariat. It was decided that studies would be conducted on the feasibility of a wider use of the German and Russian languages. The working languages already include English, French and, to a limited extent, Spanish.

**Observers.** The General Assembly fixed the principles that will govern the selection of those intergovernmental and non-governmental organizations which will be invited to certain meetings as observers.

**Headquarters Building.** The General Assembly endorsed the decisions of the WIPO Coordination Committee on this matter (see page 242, below).

## II. Conference

### First Ordinary Session

(Geneva, September 21 to 28, 1970)

#### Note\*

**Introduction.** The Conference of WIPO (hereinafter called “the Conference”) held its first ordinary session at Geneva from September 21 to 28, 1970.

The following States, members of the Conference at the opening of the session, were represented: Belgium, Brazil, Bulgaria, Byelorussia, Canada, Cuba, Czechoslovakia, Denmark, Finland, France, Germany (Federal Republic), Greece, Holy See, Hungary, Ireland, Israel, Italy, Ivory Coast, Japan, Luxembourg, Malta, Morocco, Netherlands, Norway, Poland, Portugal, Romania, South Africa, Soviet Union, Spain, Sweden, Switzerland, Syrian Arab Republic, Tunisia, Turkey, United Kingdom, United States of America, Upper Volta, Yugoslavia (39).

The other States and organizations mentioned in the list of participants (see page 245, below) were represented in an observer capacity.

After adopting its rules of procedure, the Conference elected Mr. P. Cabral de Mello (Brazil) as Chairman and Mr. I. Ivanov (Bulgaria) and Mr. W. Stamm (Switzerland) as Vice-Chairmen.

**Program and Budget.** The Conference adopted its triennial budget (1971 to 1973) and established its triennial program of legal-technical assistance.

The following are the main features of that program.

*Traineeships* will be granted in the field of the administration of the laws of industrial property and of copyright. Experts will be sent, on request, to developing countries to assist them in improving their industrial property and copy-

\* This Note was prepared by the International Bureau on the basis of the documents of the session.

right legislation and in administering their laws in these fields. Regional seminars on the same subject will be organized by WIPO.

A *model law* for developing countries on the protection of appellations of origin will be established.

The *directories of licensing opportunities and of universities offering courses in industrial property and copyright law* will be regularly brought up to date and new editions will be published.

Cooperation with the *United Nations bodies* concerned with technical assistance will continue. This applies in particular to the regional economic commissions, to the United Nations Conference on Trade and Development and the United Nations Industrial Development Organization.

Among the activities of the *Paris and Berne Unions* there are several which are of special interest to developing countries. They are mentioned in the Notes concerning the Assemblies of these two Unions.

The Conference fixed the amounts of the *contributions* of States party to the WIPO Convention not members of any

of the Unions. The other, larger source of revenues from which the technical assistance activities are covered consists of the contributions of the Unions.

**Relations with the United Nations.** See the Resolution jointly adopted by the Conference and the General Assembly, reproduced on page 239, above.

**United Nations Development Program.** See the Resolution jointly adopted by the Conference and the General Assembly, reproduced on page 240, above.

**Observers.** The Conference fixed the principles that will govern the selection of those intergovernmental and non-governmental organizations which will be invited to certain of its meetings as observers.

**Headquarters Building.** The Conference endorsed the decisions of the WIPO Coordination Committee on this matter (see page 242, below).

### III. Coordination Committee

#### First Ordinary Session

(Geneva, September 21 to 28, 1970)

#### Note\*

**Composition.** The Coordination Committee of WIPO (hereinafter called "the Coordination Committee") held its first ordinary session at Geneva from September 21 to 28, 1970.

Twenty-five of the 27 States members of the Coordination Committee were represented: *Ordinary Members:* Brazil, Canada, France, Germany (Federal Republic), Hungary, Italy, Japan, Romania, Soviet Union, Spain, Sweden, Switzerland, Tunisia, United Kingdom, United States of America (15); *Associate Members:* Argentina, Australia, Cameroon, Ceylon, Congo (Democratic Republic), India, Kenya, Mexico, Philippines, Poland (10). Pakistan and Senegal, two ordinary members, were not represented.

The other States and organizations mentioned in the list of participants (see page 245, below) were represented in an observer capacity.

After adopting its rules of procedure, the Coordination Committee elected Mr. G. R. Borggård (Sweden) as Chairman, and Mr. R. Said (Tunisia) and Mr. K. B. Petersson (Australia) as Vice-Chairmen.

**Deputy Directors General.** The Coordination Committee approved the proposal of the Director General to appoint Dr. Arpad Bogsch as First Deputy Director General of WIPO and Mr. Joseph Voyame as Second Deputy Director General of WIPO.

The Delegation of the Soviet Union proposed that one of its citizens be appointed as an additional Deputy Director General. Several Delegations supported the proposal and others suggested that the national of a developing country be appointed, or also appointed, as an additional Deputy Director General. Finally, it was agreed that the Director General would submit to the 1971 session of the Coordination Committee the results of a study of the various aspects of the question whether there should be more than two Deputy Directors General and, if so, how the new posts should be filled.

**Staff Matters.** The Coordination Committee approved the Staff Regulations and the Staff Rules of the International Bureau. They include the introduction of an internal tax on salaries.

The Coordination Committee noted with approval the proposal of the Director General to promote Mr. B. A. Armstrong, Head, Administrative Division, to the rank of Senior Counsellor.

**Headquarters Agreement.** The Coordination Committee examined the draft of a headquarters agreement to be concluded between WIPO and the Government of the Swiss Confederation. It gave the required authorization to the Director General to conclude such an agreement. The agreement will replace the rules which, since 1960, have governed the status of BIRPI in Switzerland.

\* This Note was prepared by the International Bureau on the basis of the documents of the session.

**Agreements with Intergovernmental Organizations.** The Coordination Committee authorized the Director General to conclude a new working agreement with the United Nations. The text of this Agreement is published on page 245 of this issue.

Furthermore, the Coordination Committee authorized the Director General to apply, *mutatis mutandis*, the working agreements concluded by BIRPI. Such agreements are in force with the following Organizations: International Labour Office, Unesco, World Health Organization, General Agreement on Tariffs and Trade, Latin American Free Trade Association, Council of Europe, Industrial Development Centre for Arab States, International Olive Oil Council, International Patent Institute, International Wine Office, Organization of American States.

**Arrangements with Non-Governmental Organizations.** The Coordination Committee authorized consultation and cooperation with some fifty non-governmental organizations, designated by name. Such consultations and cooperation will take place in appropriate cases and within appropriate limits, in

accordance with the practice established by BIRPI. Most of the organizations in question are international. Some of them are national.

**Headquarters Building.** The present headquarters building, situated at 32 chemin des Colombettes, Geneva, contains offices for 100 employees and one conference room for approximately 70 delegates. Completed in 1960, the building has now become too small. The Coordination Committee approved the plans for a second building, to be constructed next to the existing one, with more office space and two conference rooms, one for 200 and one for 50 delegates. The actual building will be started only after approval by the Coordination Committee of the definitive plan for financing the construction.

**Observers.** The Coordination Committee fixed the principles that will govern the selection of those intergovernmental and non-governmental organizations which will be invited to certain meetings as observers.

## International Union for the Protection of Literary and Artistic Works (Berne Union)

### I. Assembly

#### First Ordinary Session

(Geneva, September 21 to 28, 1970)

#### Note\*

**Introduction.** The Assembly of the Berne Union (hereinafter called "the Assembly") held its first ordinary session at Geneva from September 21 to 28, 1970.

The following States, members of the Assembly at the opening of the session, were represented: Belgium, Brazil, Bulgaria, Canada, Czechoslovakia, Denmark, Finland, France, Germany (Federal Republic), Greece, Holy See, Hungary, Ireland, Israel, Italy, Ivory Coast, Japan, Luxembourg, Malta, Morocco, Netherlands, Norway, Portugal, Romania, South Africa, Spain, Sweden, Switzerland, Tunisia, Turkey, United Kingdom, Yugoslavia (32).

The other States and organizations mentioned in the list of participants (see page 245, below) were represented in an observer capacity.

After adopting its rules of procedure, the Assembly elected Mr. A. M. Laidlaw (Canada) as Chairman, and Mr. A. H'ssaïne (Morocco) and Mr. J. Kordač (Czechoslovakia) as Vice-Chairmen.

**Executive Committee of the Berne Union.** The Assembly elected the ordinary members of the Executive Committee of the Berne Union. The total number of members of the Assembly at the opening of the session being 35, the number of seats

to be filled was eight. The following States were elected in the capacity of ordinary members: Canada, France, Germany (Federal Republic), Italy, Pakistan, Romania, Tunisia, United Kingdom. It was agreed that, if a ninth seat were to become available, Spain would automatically fill it. In accordance with Article 23(2)(a) of the Stockholm Act of the Berne Convention, Switzerland is an ordinary member *ex officio*.

**Program and Budget.** The main features of the program for the period 1971 to 1973 adopted by the Assembly are the following:

The *Berne Convention for the Protection of Literary and Artistic Works* is scheduled to be revised in a diplomatic conference to be held in the summer of 1971 in Paris. The revision will mainly consist of the adoption of an Additional Act replacing, in effect, the Stockholm Protocol Regarding Developing Countries (1967). The Additional Act will allow developing countries members of the Berne Union to apply a lower degree of protection in the case of the rights of translation and reproduction than that which other member States of the Berne Union are obliged to apply.

The same diplomatic conference, or a later one, will establish a new *treaty for the protection of phonograms* against unauthorized reproduction and the importation and sale of unauthorized copies.

\* This Note was prepared by the International Bureau on the basis of the documents of the session.

The studies concerning the *protection of television signals transmitted by communications satellites* will continue, and it is expected that, before the three-year period in question is over, they will result in the conclusion of a new multilateral treaty.

The consultations and studies on the impact of the *use of computers* on the protection of literary and artistic works when such works are stored in or retrieved with the help of computers will continue.

In the last three fields, WIPO will act jointly with Unesco.

The Assembly adopted the budget of the Berne Union corresponding to the program as approved.

**Financial Regulations; Auditors.** The Assembly adopted the financial regulations of the Berne Union and designated Switzerland to audit the accounts of the Union.

**Observers.** The Assembly fixed the principles that will govern the selection of those intergovernmental and non-governmental organizations which will be invited to certain meetings as observers.

**Headquarters Building.** The Assembly endorsed the decisions of the WIPO Coordination Committee on this matter (see page 242, above).

## II. Conference of Representatives

### First Ordinary Session

(Geneva, September 21 to 28, 1970)

#### Note \*

**Establishment of a Conference of Representatives of the Berne Union.** It was the Stockholm Act of the Berne Convention that instituted the Assembly of the Berne Union. Countries which have not yet accepted at least the administrative provisions of the Stockholm Act are therefore not members of the Assembly. In order to create an organ in which such countries may express their opinions and make certain decisions, the said countries decided to establish a Conference of Representatives and modelled it on the Conference of Representatives of the International (Paris) Union for the Protection of Industrial Property. That Conference was set up by the Lisbon Act (1958) of the Paris Convention.

The Conference of Representatives of the Berne Union was established in accordance with the terms of the following Resolution:

“1. The countries members of the International Union for the Protection of Literary and Artistic Works (Berne Union) which are not members of the Assembly of the said Union,

“2. *Meeting* in Geneva from September 21 to 28, 1970,

“3. *Resolve* to establish a Conference of Representatives of the Berne Union;

“4. *Decide* that the members of this Conference shall be those member countries of the Berne Union which are not members of the Assembly of the Berne Union, and that any member country of the Berne Union which, in the future, shall become a member of the Assembly of the Berne Union shall automatically cease to be a member of the Conference of Representatives;

“5. *Decide* that the Conference of Representatives shall meet every three years in ordinary session in order to draw up, for each three-year period to come, a report on the fore-

seeable expenditure of the International Bureau as far as the Berne Union is concerned, and to consider questions relating to the protection and the development of the said Union;

“6. *Resolve* that the Conference of Representatives may modify, by unanimous decision, the maximum annual amount of the expenditure of the International Bureau as far as the countries members of the Conference of Representatives are concerned, provided that it meets as a Conference of Plenipotentiaries upon convocation by the Government of the Swiss Confederation;

“7. *Resolve* that the Conference of Representatives shall establish its own rules of procedure.”

**Composition of the First Session.** The countries in question, having adopted the Resolution quoted above, on September 21, 1970, decided to hold forthwith the first ordinary session of the Conference of Representatives of the Berne Union (hereinafter called “the Conference”). The session took place at Geneva and lasted from September 21 to 28, 1970.

The following States, members of the Conference at the opening of the session, were represented: Argentina, Australia, Austria, Cameroon, Ceylon, Chile, Congo (Democratic Republic), Gabon, India, Lebanon, Mexico, Monaco, Philippines, Poland (14).

The other States and organizations mentioned in the list of participants (see page 245, below) were represented in an observer capacity.

After having adopted its rules of procedure, the Conference elected Mr. K. Chaudhuri (India) as Chairman, and Mr. Ekeddi-Samnik (Cameroon) and Mr. R. Valenzuela (Mexico) as Vice-Chairmen.

**Executive Committee of the Berne Union.** The Conference elected the associate members of the Executive Committee of the Berne Union. The total number of members of the Con-

\* This Note was prepared by the International Bureau on the basis of the documents of the session.

ference at the opening of the session being 24, and the number represented at the session being less than 20, the number of seats to be filled was five. The following States were elected in the capacity of associate members: Congo (Democratic Republic), India, Mexico, Philippines, Poland.

**Program and Contributions.** The Conference expressed a favorable opinion on the program of the Berne Union adopted by the Assembly of that Union for the years 1971 to 1973. The main features of the program are described above (see page 242).

The Conference fixed the ceiling of the contributions by the following Decision:

“The countries members of the International Union for the Protection of Literary and Artistic Works (Berne Union) not bound by the decisions of the Assembly of the Union and meeting as a Conference of Plenipotentiaries at Geneva from September 21 to 28, 1970,

“Noting that the Assembly of the Berne Union has unani- mously adopted a budget according to which the mandatory

contributions of the countries members of the Berne Union shall be calculated on the basis of 1,250,000 Swiss francs for 1971, 1,350,000 Swiss francs for 1972, and 1,500,000 Swiss francs for 1973,

“Decide unanimously that the maximum annual amount of the mandatory contributions of the countries members of the Berne Union not bound by the decisions of the Assembly of the said Union shall, for the said years, be calculated on the basis of the same amounts, and that the amount fixed for 1973 shall apply also for the years after 1973 pending a new decision for the said years.”

**Observers.** The Conference fixed the principles that will govern the selection of those intergovernmental and non-governmental organizations which will be invited to certain meetings as observers.

**Headquarters Building.** The Conference endorsed the decisions of the WIPO Coordination Committee on this matter (see page 242, above).

### III. Executive Committee

#### First Ordinary Session

(Geneva, September 21 to 28, 1970)

#### Note\*

**Introduction.** The Executive Committee of the Berne Union (hereinafter called “the Committee”) held its first ordinary session at Geneva from September 21 to 28, 1970.

Fourteen of the 15 States members of the Committee were represented: *Ordinary Members:* Canada, France, Germany (Federal Republic), Italy, Romania, Spain, Switzerland, Tunisia, United Kingdom (9); *Associate Members:* Congo (Democratic Republic), India, Mexico, Philippines, Poland (5). Pakistan, an ordinary member, was not represented.

The other States and organizations mentioned in the list of participants (see page 245, below) were represented in an observer capacity.

\* This Note was prepared by the International Bureau on the basis of the documents of the session.

After adopting its rules of procedure, the Committee elected Mr. E. Ulmer (Germany (Federal Republic)) as Chairman, and Mr. P. Teoreanu (Romania) and Mr. J.-B. Emany (Congo (Democratic Republic)) as Vice-Chairmen.

**Program and Budget.** The Committee approved the program and budget of the Berne Union for the year 1971. For details, see page 242, above.

**Observers.** The Committee fixed the principles that will govern the selection of those intergovernmental and non-governmental organizations which will be invited to certain meetings as observers.

## List of Participants in the Meetings of WIPO and of the Berne Union \*

### I. States

**Algeria:** G. Sellali (Mrs.); S. Bouzidi; D. Boussaid; K. Lokmane. **Argentina:** L. M. Laurelli. **Australia:** K. B. Petersson; A. Brown. **Austria:** R. Dittrich; T. Lorenz; P. Klein. **Belgium:** J. P. van Bellinghen; G.-L. De San; J. Degavre; C. Kirschen (Miss). **Byelorussia:** V. I. Pesbkov. **Brazil:** P. Cabral de Mello; T. Thedim Lobo; J. de Carvalho; M. S. Couto; A. G. Bahadian; T. Oniga. **Bulgaria:** I. Ivanov; V. Dimitrov; I. Daskalov. **Cameroon:** J. Ekedi Samnik. **Canada:** A. M. Laidlaw; F. W. Simons; A. A. Keyes; R. Auger; P. Lapointe. **Ceylon:** A. Pathmarajab. **Chile:** L. Larrain. **Congo (Democratic Republic):** J.-B. Emany; S. Ayits; A. Kankonde. **Cuba:** F. Ortiz Rodriguez; R. Pérez-Acosta. **Czechoslovakia:** V. Vaniš; J. Kordač; O. Fabian; J. Konk; J. Stabl; J. Prošek. **Denmark:** E. Tuxen; E. Moelgaard; J. Nørup-Nielsen; D. Simonsen (Mrs.); R. Carlsen (Mrs.). **Dominican Republic:** F. Herrera-Roa. **Finland:** E. Tuuli; R. Meinander. **France:** P. Charpentier; J. Fernand-Laurent; F. G. H. Savignon; R. Labry; M. Bierry; A. Kerever; R. Leclerc. **Gabon:** J.-B. Essongbé. **Germany (Federal Republic):** S. Schnippenkoetter; A. Krieger; E. Ulmer; H. Mast; R. Singer; W. Tilmann; G. Rheker (Miss). **Greece:** G. Pilavachi. **Holy See:** H. de Riedmatten. **Hungary:** E. Tasnádi; G. Pusztai; J. Zakár; J. Bobrovsky; J. Gál. **India:** P. M. S. Malik; G. S. Balakrishnan. **Iran:** M. Mohseni; E. Djahannema. **Ireland:** M. J. Quinn. **Israel:** M. Melamed. **Italy:** P. Archi; G. Trotta; G. Galtieri; A. Pelizza; C. Ferro-Luzzi; R. Messerotti-Benvenuti. **Ivory Coast:** A.-E. Thiemele. **Japan:** S. Tokuhisa; M. Kuroda; K. Takano; M. Kato. **Kenya:** D. J. Coward. **Lebanon:** R. Homsy (Mrs.). **Luxembourg:** J. P. Hoffmann; E. Emringer. **Malta:** E. Saliba; A. A. Zarb. **Mexico:** R. Valenzuela; M. A. Lopez-Ortega (Miss). **Monaco:** J.-M. Notari. **Morocco:** A. H'ssaïne. **Netherlands:** W. M. J. C. Phaf; J. B. van Benthem; H. J. A. M. Vrouwenvelder. **Nigeria:** M. O. Onafalujo. **Norway:** S. H. Røer. **Philippines:** M. S. Aguillon. **Poland:** J. Szomański; K. Matlaszek (Miss); B. Janicki. **Portugal:** J. de Oliveira Ascensão; M. T. Pereira de Castro Ascensão (Mrs.); L. Pazos Alonso; J. Mota Maia; J. Pereira da Cruz. **Romania:** P. Teoreanu; M. Costin (Mrs.); F. Dinu. **South Africa:** J. J. Becker; O. J. Kok; H. Heese. **Soviet Union:** Y. Maksarev; V. Chatrov; V. Roslov; V. Kalinine. **Spain:** A. F. Mazarambroz; I. Fonseca Ruiz (Miss); E. Valera. **Sweden:** G. R. Borggård; L. Kellberg; C. Uggla; L. Jonson; I. Stjernberg. **Switzerland:** W. Stamm; F.-C. Pietet; R. Kämpf; P. Ruedin. **Syrian Arab Republic:** M. Wehbeh. **Togo:** C. B. Johnson. **Tunisia:** M. Sayah; R. Said; A. Amri; H. Abbas; H. Ben Achour. **Turkey:** O. Kulin. **United Arab Republic:** H. Kballaf; Y. Rizk. **United Kingdom:** E. Armitage; W. Wallace; H. W. Savage; T. A. Evans;

\* A list containing the titles and functions of the participants may be obtained from the International Bureau upon request.

D. J. Johnson. **United States of America:** E. M. Braderman; W. E. Schuyler, Jr.; A. L. Kaminstein; H. J. Winter; R. D. Tegtmeyer; R. Hadl; H. D. Hoinkes. **Upper Volta:** H. Ouedraogo. **Yugoslavia:** S. Pretnar; N. Janković.

### II. Organizations

**United Nations Organization:** C. Doblin (Mrs.); H. Cornil. **United Nations Conference on Trade and Development (UNCTAD):** S. J. Patel. **United Nations Educational, Scientific and Cultural Organization (Unesco):** M.-C. Dock (Miss). **International Patent Institute (IIB):** G. M. Finnis; P. Van Waasbergen; L. F. W. Knight. **African and Malagasy Industrial Property Office (OAMPI):** D. Ekani. **Benelux Trademark Office:** L. J. M. Van Bauwel.

### III. WIPO

G. H. C. Bodenhausen (*Director General*); A. Bogsch (*First Deputy Director General*); J. Voyame (*Second Deputy Director General*); C. Masouyé (*Senior Counsellor, Head, External and Public Relations Division*); K. Pfanner (*Senior Counsellor, Head, Industrial Property Division*); H. Skov (*Vice Secretary General of UPOV*); B. A. Armstrong (*Senior Counsellor, Head, Administrative Division*); L. Egger (*Counsellor, Head, International Registrations Division*); V. Strnad (*Counsellor, Head, Copyright Division*).

### IV. Officers and Secretariat

#### World Intellectual Property Organization (WIPO)

**General Assembly:** *chairman* E. Armitage (United Kingdom); *vice-chairmen:* E. M. Braderman (United States); K. Coulibaly (Senegal); *secretary* C. Masouyé (WIPO);

**Conference:** *chairman* P. Cabral de Mello (Brazil); *vice-chairmen:* I. Ivanov (Bulgaria); W. Stamm (Switzerland); *secretary* C. Masouyé (WIPO);

**Coordination Committee:** *chairman* G. R. Borggård (Sweden); *first vice-chairman* R. Said (Tunisia); *second vice-chairman* K. B. Petersson (Australia); *secretary* C. Masouyé (WIPO).

#### Berne Union

**Assembly:** *chairman* A. M. Laidlaw (Canada); *vice-chairmen:* A. H'ssaïne (Morocco); J. Kordač (Czechoslovakia); *secretary* V. Strnad (WIPO);

**Conference of Representatives:** *chairman* K. Chaudhuri (India); *vice-chairmen:* J. Ekedi-Samnik (Cameroon); R. Valenzuela (Mexico); *secretary* V. Strnad (WIPO).

**Executive Committee:** *chairman* E. Ulmer (Germany (Fed. Rep.)); *vice-chairmen:* P. Teoreanu (Romania); J. B. Emany (Congo (Dem. Rep.)); *secretary* V. Strnad (WIPO).

## WORLD INTELLECTUAL PROPERTY ORGANIZATION

### Working Agreement between WIPO and the United Nations

On the basis of authorization given to the Director General of WIPO by the Coordination Committee at its first session held in September 1970, a working agreement has been concluded between WIPO and the United Nations. The terms of

this agreement are contained in a letter sent by the Secretary-General of the United Nations to the Director General of WIPO on September 22, 1970, and the reply of the latter of October 12, 1970. The text of these two letters is as follows:

## I

Dear Mr. Bodenhausen,

I have the honour to refer to the entry into force of the Convention establishing the World Intellectual Property Organization (WIPO) on April 26, 1970, of which I have recently been officially informed. In this connexion, I should like to recall the exchange of letters, dated September 23 and October 2, 1964, between the United Nations and the United International Bureaux for the Protection of Intellectual Property, of which the International Bureau of WIPO is a continuation. I should also inform you that on 30 July 1970 the Economic and Social Council of the United Nations was informed by its President of my intention to suggest that the United Nations should have similar relations with WIPO as it had with BIRPI.

No objection having been raised by members of the Council to this suggestion, I should like to propose that our future collaboration be based on the following practical arrangements:

1. The Secretariat of the United Nations and the International Bureau of the World Intellectual Property Organization (WIPO) shall exchange, as appropriate, information and documentation relevant to matters of mutual interest.

2. In matters of mutual interest, representatives of the Secretariat of the United Nations shall be invited to attend in an observer capacity the negotiating conferences organized by WIPO, the conferences or other meetings of all WIPO bodies, and such expert committees, working groups and seminars as may be organized by WIPO.

3. Representatives of WIPO shall be invited to attend in an observer capacity meetings of the General Assembly, the Economic and Social Council and other United Nations bodies, when such meetings deal with questions of intellectual property as defined in the Convention establishing WIPO.

In addition to these formal arrangements, I shall look forward to a continuation and extension with WIPO of the collaboration which has been established since 1964 with BIRPI through an informal exchange of publications and appropriate consultation, on an *ad hoc* basis, relating to questions of co-ordination with organizations of the United Nations system in respect of programme activities and administrative matters. Such consultations are without prejudice to any special arrangement that may be concluded between WIPO and organizations of the United Nations system to co-ordinate their activities.

Yours sincerely,  
U THANT

## II

Dear Mr Secretary General,

I have the honor to acknowledge receipt of your letter of September 22, 1970, addressed to me in my capacity as Director of the United International Bureaux for the Protection of Intellectual Property (BIRPI), in which capacity, by virtue of Article 21(1) of the Convention Establishing the World Intellectual Property Organization (WIPO), I exercised the functions of Director General of WIPO until the assumption of office of the first Director General.

At its first session held from September 21 to 28, 1970, the General Assembly of WIPO appointed me Director General of WIPO and I am replying to your letter in that capacity.

In your letter you proposed that collaboration between the United Nations and WIPO be based on the following practical arrangements:

1. The Secretariat of the United Nations and the International Bureau of the World Intellectual Property Organization (WIPO) shall exchange, as appropriate, information and documentation relevant to matters of mutual interest.

2. In matters of mutual interest, representatives of the Secretariat of the United Nations shall be invited to attend in an observer capacity the negotiating conferences organized by WIPO, the conferences or other meetings of all WIPO bodies, and such expert committees, working groups and seminars as may be organized by WIPO.

3. Representatives of WIPO shall be invited to attend in an observer capacity meetings of the General Assembly, the Economic and Social Council and other United Nations bodies, when such meetings deal with questions of intellectual property as defined in the Convention establishing WIPO.

On the basis of authorization given by the Coordination Committee of WIPO at its first session held from September 21 to 28, 1970, I accept with pleasure your proposal for the establishment of working relations as specified above.

With reference to the last paragraph of your letter, may I add that, in addition to the above mentioned formal arrangements, I too shall look forward to the continuation and extension for WIPO of the collaboration which has been established since 1964 between the United Nations and BIRPI, particularly in relation to appropriate consultation on an *ad hoc* basis relating to questions of coordination with organizations of the United Nations system in respect of program activities and administrative matters. Such consultations will be without prejudice to any special arrangement that may be concluded between WIPO and organizations of the United Nations system to coordinate their activities.

Yours sincerely,  
G. H. C. BODENHAUSEN

# NATIONAL LEGISLATION

## AUSTRALIA

### Copyright Act 1968

(No. 63 of 1968)

An Act relating to copyright, and for other purposes

(Sections 114 to 175)\*

#### PART V

#### Remedies for Infringements of Copyright

##### Division 1. — Preliminary

##### *Interpretation*

114. — (1) In this Part, “action” means a proceeding of a civil nature between parties, and includes a counterclaim.

(2) In the application of this Part in relation to a counterclaim, references to the plaintiff and to the defendant shall be read as references to the defendant and to the plaintiff, respectively.

##### Division 2. — Actions by Owner of Copyright

##### *Actions for infringement*

115. — (1) Subject to this Act, the owner of a copyright may bring an action for an infringement of the copyright.

(2) Subject to this Act, the relief that a court may grant in an action for an infringement of copyright includes an injunction (subject to such terms, if any, as the court thinks fit) and either damages or an account of profits.

(3) Where, in an action for infringement of copyright, it is established that an infringement was committed but it is also established that, at the time of the infringement, the defendant was not aware, and had no reasonable grounds for suspecting, that the act constituting the infringement was an infringement of the copyright, the plaintiff is not entitled under this section to any damages against the defendant in respect of the infringement, but is entitled to an account of profits in respect of the infringement whether any other relief is granted under this section or not.

(4) Where, in an action under this section —

- (a) an infringement of copyright is established; and
- (b) the court is satisfied that it is proper to do so, having regard to —
  - (i) the flagrancy of the infringement;
  - (ii) any benefit shown to have accrued to the defendant by reason of the infringement; and
  - (iii) all other relevant matters,

the court may, in assessing damages for the infringement, award such additional damages as it considers appropriate in the circumstances.

\* See *Copyright*, 1970, pp. 178 *et seq.*, 218 *et seq.*

#### *Rights of owner of copyright in respect of infringing copies*

116. — (1) Subject to this Act, the owner of the copyright in a work or other subject-matter is entitled in respect of any infringing copy, or of any plate used or intended to be used for making infringing copies, to the rights and remedies, by way of an action for conversion or detention, to which he would be entitled if he were the owner of the copy or plate and had been the owner of the copy or plate since the time when it was made.

(2) A plaintiff is not entitled by virtue of this section to any damages or to any other pecuniary remedy, other than costs, if it is established that, at the time of the conversion or detention —

- (a) the defendant was not aware, and had no reasonable grounds for suspecting, that copyright subsisted in the work or other subject-matter to which the action relates;
- (b) where the articles converted or detained were infringing copies — the defendant believed, and had reasonable grounds for believing, that they were not infringing copies; or
- (c) where an article converted or detained was a plate used or intended to be used for making articles — the defendant believed, and had reasonable grounds for believing, that the articles so made or intended to be made were not or would not be, as the case may be, infringing copies.

##### Division 3. — Proceedings where Copyright is subject to Exclusive Licence

##### *Definitions*

117. — In this Division —

“if the licence had been an assignment” means if, instead of the licence, there had been granted (subject to conditions corresponding as nearly as practicable with those subject to which the licence was granted) an assignment of the copyright in respect of its application to the doing, at the places and times authorized by the licence, of the acts so authorized;

“the other party” means —

- (a) in relation to the owner of the copyright — the exclusive licensee; and
- (b) in relation to the exclusive licensee — the owner of the copyright.

### *Application*

118. — This Division applies to proceedings in relation to a copyright in respect of which an exclusive licence has been granted and is in force at the time of the events to which the proceedings relate.

### *Rights of exclusive licensee*

119. — Subject to the succeeding sections of this Division —

- (a) except against the owner of the copyright, the exclusive licensee has the same rights of action as he would have, and is entitled to the same remedies as he would be entitled to, by virtue of section 115 of this Act if the licence had been an assignment, and those rights and remedies are concurrent with the rights and remedies of the owner of the copyright under that section;
- (b) except against the owner of the copyright, the exclusive licensee has the same rights of action as he would have, and is entitled to the same remedies as he would be entitled to, by virtue of section 116 of this Act if the licence had been an assignment; and
- (c) the owner of the copyright does not have any rights of action that he would not have, and is not entitled to any remedies that he would not be entitled to, by virtue of section 116 of this Act if the licence had been an assignment.

### *Joinder of owner or exclusive licensee as a party*

120. — (1) Where —

- (a) an action is brought by the owner of the copyright or by the exclusive licensee; and
- (b) the action, in so far as it is brought under section 115 of this Act, relates, in whole or in part, to an infringement in respect of which the owner and the licensee have concurrent rights of action under that section,

the owner or licensee, as the case may be, is not entitled, except with the leave of the court, to proceed with the action, in so far as it is brought under that section and relates to that infringement, unless the other party is joined as a plaintiff in the action or added as a defendant.

(2) This section does not affect the granting of an interlocutory injunction on the application of the owner of the copyright or of the exclusive licensee.

### *Defences available against exclusive licensee*

121. — In an action brought by the exclusive licensee by virtue of this Division, a defence under this Act that would have been available to a defendant in the action if the action had been brought by the owner of the copyright is available to that defendant as against the exclusive licensee.

### *Assessment of damages where exclusive licence granted*

122. — Where an action to which section 120 of this Act applies is brought and the owner of the copyright and the exclusive licensee are not both plaintiffs in the action, the

court, in assessing damages in respect of an infringement of a kind referred to in that section, shall —

- (a) if the plaintiff is the exclusive licensee — take into account any liabilities, in respect of royalties or otherwise, to which the licence is subject; and
- (b) whether the plaintiff is the owner of the copyright or the exclusive licensee — take into account any pecuniary remedy already awarded to the other party under section 115 of this Act in respect of that infringement, or any right of action exercisable by the other party under that section in respect of that infringement, as the case requires.

### *Apportionment of profits between owner and exclusive licensee*

123. — Where —

- (a) an action, in so far as it is brought under section 115 of this Act, relates, in whole or in part, to an infringement in respect of which the owner of the copyright and the exclusive licensee have concurrent rights of action under that section; and
- (b) in that action, whether the owner of the copyright and the exclusive licensee are both parties or not, an account of profits is directed to be taken in respect of that infringement,

then, subject to any agreement of which the court is aware by which the application of those profits is determined as between the owner of the copyright and the exclusive licensee, the court shall apportion the profits between them in such manner as the court considers just and shall give such directions as the court considers appropriate for giving effect to that apportionment.

### *Separate actions in relation to the same infringement*

124. — In an action brought by the owner of the copyright or by the exclusive licensee —

- (a) a judgment or order for the payment of damages in respect of an infringement of copyright shall not be given or made under section 115 of this Act if a final judgment or order has been given or made in favour of the other party directing an account of profits under that section in respect of the same infringement; and
- (b) a judgment or order for an account of profits in respect of an infringement of copyright shall not be given or made under that section if a final judgment or order has been given or made in favour of the other party awarding damages or directing an account of profits under that section in respect of the same infringement.

### *Liability for costs*

125. — Where, in an action to which section 120 of this Act applies, whether brought by the owner of the copyright or by the exclusive licensee, the other party is not joined as a plaintiff (either at the commencement of the action or at a later time), but is added as a defendant, the other party is not liable for any costs in the action unless he enters an appearance and takes part in the proceedings.

**Division 4. — Proof of Facts in Copyright Proceedings**

*Presumptions as to subsistence and ownership of copyright*

**126.** — In an action brought by virtue of this Part —

- (a) copyright shall be presumed to subsist in the work or other subject-matter to which the action relates if the defendant does not put in issue the question whether copyright subsists in the work or other subject-matter; and
- (b) where the subsistence of the copyright is established — the plaintiff shall be presumed to be the owner of the copyright if he claims to be the owner of the copyright and the defendant does not put in issue the question of his ownership.

*Presumptions in relation to authorship of work*

**127.** — (1) Where a name purporting to be that of the author of a literary, dramatic, musical or artistic work appeared on copies of the work as published or a name purporting to be that of the author of an artistic work appeared on the work when it was made, the person whose name so appeared, if it was his true name or a name by which he was commonly known, shall, in an action brought by virtue of this Part, be presumed, unless the contrary is established, to be the author of the work and to have made the work in circumstances to which sub-sections (4), (5) and (6) of section 35 of this Act do not apply.

(2) Where a work is alleged to be a work of joint authorship, the last preceding sub-section applies in relation to each person alleged to be one of the authors of the work as if references in that sub-section to the author were references to one of the authors.

(3) Where, in an action brought by virtue of this Part in relation to a photograph —

- (a) it is established that, at the time when the photograph was taken, a person was the owner of the material on which the photograph was taken or, if the ownership of that material as at that time is not established, that a person was the owner of the apparatus by which the photograph was taken; or
  - (b) neither the ownership as at the time when the photograph was taken of the material on which it was taken nor the ownership as at that time of the apparatus by which it was taken is established but it is established that, at the time of the death of a person, the photograph was owned by the person or, if the ownership of the photograph as at that time is not established, was in the possession or custody of the person,
- the person shall be presumed, unless the contrary is established, to have been the person who took the photograph.

*Presumptions in relation to publisher of work*

**128.** — Where, in an action brought by virtue of this Part in relation to a literary, dramatic, musical or artistic work, the last preceding section does not apply, but it is established —

- (a) that the work was first published in Australia and was so published during the period of fifty years that ended

immediately before the commencement of the calendar year in which the action was brought; and

- (b) that a name purporting to be that of the publisher appeared on copies of the work as first published,
- then, unless the contrary is established, copyright shall be presumed to subsist in the work and the person whose name so appeared shall be presumed to have been the owner of that copyright at the time of the publication.

*Presumptions where author has died*

**129.** — (1) Where, in an action brought by virtue of this Part in relation to a literary, dramatic, musical or artistic work, it is established that the author is dead —

- (a) the work shall be presumed to be an original work unless the contrary is established; and
- (b) if it is alleged by the plaintiff that a publication specified in the allegation was the first publication of the work, and that it took place in a country and on a date so specified — that publication shall be presumed, unless the contrary is established, to have been the first publication of the work, and to have taken place in that country and on that date.

(2) Where —

- (a) a literary, dramatic, musical or artistic work has been published;
- (b) the publication was anonymous or is alleged by the plaintiff to have been pseudonymous; and
- (c) it is not established that the work has ever been published under the true name of the author, or under a name by which he was commonly known, or that the identity of the author is generally known or can be ascertained by reasonable inquiry,

paragraphs (a) and (b) of the last preceding sub-section apply, in an action brought by virtue of this Part in relation to the work, in like manner as those paragraphs apply where it is established that the author is dead.

*Evidence in relation to recordings*

**130.** — In an action brought by virtue of this Part in relation to copyright in a sound recording, if records embodying the recording or a part of the recording have been supplied (whether by sale or otherwise) to the public and, at the time when records embodying the recording or part of the recording were first so supplied, the records or their containers bore a label or other mark containing a statement —

- (a) that a person specified on the label or mark was the maker of the recording;
- (b) that the recording was first published in a year specified on the label or mark; or
- (c) that the recording was first published in a country specified on the label or mark,

that label or mark is sufficient evidence of the facts so stated except in so far as the contrary is established.

*Presumption in relation to maker of film*

**131.** — Where the name of a person appeared on copies of a cinematograph film as made available to the public in

such a way as to imply that the person was the maker of the film and, in the case of a person other than a body corporate, that name was his true name or a name by which he was commonly known, that person shall, in an action brought by virtue of this Part, be presumed, unless the contrary is established, to be the maker of the film and to have made the film in circumstances to which sub-section (3) of section 98 of this Act does not apply.

#### Division 5. — Offences and Summary Proceedings

##### *Offences*

132. — (1) A person shall not, at a time when copyright subsists in a work —

- (a) make an article for sale or hire;
- (b) sell or let for hire, or by way of trade offer or expose for sale or hire, an article;
- (c) by way of trade exhibit an article in public; or
- (d) import an article into Australia for the purpose of —
  - (i) selling, letting for hire, or by way of trade offering or exposing for sale or hire, the article;
  - (ii) distributing the article for the purpose of trade, or for any other purpose to an extent that will affect prejudicially the owner of the copyright in the work; or
  - (iii) by way of trade exhibiting the article in public, if he knows the article to be an infringing copy of the work.

(2) A person shall not, at a time when copyright subsists in a work, distribute —

- (a) for the purpose of trade; or
  - (b) for any other purpose to an extent that affects prejudicially the owner of the copyright,
- an article that he knows to be an infringing copy of the work.

(3) A person shall not, at a time when copyright subsists in a work, make or have in his possession a plate knowing that it is to be used for making infringing copies of the work.

(4) The last three preceding sub-sections apply in relation to copyright subsisting in any subject-matter by virtue of Part IV in like manner as they apply in relation to copyright subsisting in a work by virtue of Part III.

(5) A person shall not cause a literary, dramatic or musical work to be performed in public, knowing that copyright subsists in the work and that the performance constitutes an infringement of the copyright.

(6) This section applies only in respect of acts done in Australia.

##### *Penalties*

133. — (1) A contravention by a person of sub-section (1) or sub-section (2) of the last preceding section is an offence punishable upon summary conviction —

- (a) if it is his first conviction of an offence by reason of a contravention of that section — by a fine not exceeding Ten dollars for each article to which the offence relates; and
- (b) in any other case — by a fine not exceeding Ten dollars for each article to which the offence relates or by imprisonment for a period not exceeding two months.

(2) A fine imposed by virtue of the last preceding sub-section shall not exceed Two hundred dollars in respect of articles comprised in the same operation or transaction.

(3) A contravention by a person of sub-section (3) or sub-section (5) of the last preceding section is an offence punishable upon summary conviction —

- (a) if it is his first conviction of an offence by reason of a contravention of that section — by a fine not exceeding Two hundred dollars; and
- (b) in any other case — by a fine not exceeding Two hundred dollars or by imprisonment for a period not exceeding two months.

(4) The court before which a person is charged with an offence by reason of a contravention of the last preceding section may, whether he is convicted of the offence or not, order that any article in his possession that appears to the court to be an infringing copy, or to be a plate used or intended to be used for making infringing copies, be destroyed or delivered up to the owner of the copyright concerned or otherwise dealt with in such manner as the court thinks fit.

#### Division 6. — Miscellaneous

##### *Limitation of actions in respect of infringement of copyright*

134. — An action shall not be brought for an infringement of copyright or in respect of the conversion or detention of an infringing copy, or of a plate used or intended to be used for making infringing copies, after the expiration of six years from the time when the infringement took place or the infringing copy or plate was made, as the case may be.

##### *Restriction of importation of printed copies of works*

135. — (1) In this section —

- (a) a reference to Australia does not include a reference to the Territories of the Commonwealth not forming part of the Commonwealth; and
- (b) a reference to importation into Australia does not include a reference to importation from such a Territory.

(2) The owner of the copyright in a published literary, dramatic or musical work may give notice in writing to the Comptroller-General of Customs (in this section referred to as “the Comptroller-General”) stating —

- (a) that he is the owner of the copyright in the work; and
- (b) that he objects to the importation into Australia, during a period specified in the notice, of copies of the work to which this section applies.

(3) A notice under the last preceding sub-section is of no effect unless the period specified in the notice does not exceed five years and does not extend beyond the end of the period for which the copyright in the work to which the notice relates is to subsist.

(4) This section applies, in relation to a work, to any printed copy of the work made outside Australia and the Territories of the Commonwealth not forming part of the Commonwealth the making of which would, if it had been made in Australia by the person who imported it into Australia, have constituted an infringement of the copyright in the work.

(5) Where a notice has been given under this section in respect of a work and has not been withdrawn, the importation of copies of the work to which this section applies into Australia for the purpose of —

- (a) selling, letting for hire, or by way of trade offering or exposing for sale or hire, the copies;
  - (b) distributing the copies —
    - (i) for the purpose of trade; or
    - (ii) for any other purpose to an extent that will affect prejudicially the owner of the copyright in the work; or
  - (c) by way of trade exhibiting the copies in public,
- is prohibited and any such copies, if imported into Australia for any such purpose, may be seized as forfeited to the Commonwealth.

(6) Subject to the regulations, the Comptroller-General, or on appeal from him the Minister of State for Customs and Excise, may permit copies of a work that are liable to be or have been seized as forfeited under this section to be delivered to the owner or importer upon security being given to the satisfaction of the Comptroller-General that the copies will be forthwith exported from Australia.

(7) The provisions of the *Customs Act* 1901-1968 apply to the seizure and forfeiture under this section of copies of a work to which this section applies as if the copies were prohibited imports for the purposes of that Act.

(8) The regulations may make provision for or in relation to —

- (a) the forms of notices under this section;
- (b) the times at which, and the manner in which, notices are to be given;
- (c) the giving of information and evidence to the Comptroller-General;
- (d) the payment of fees and the giving of security to the Comptroller-General in respect of any liability or expense that may be incurred by him as a result of the seizure of any copy of a work to which a notice under this section relates; and
- (e) indemnifying the Comptroller-General against any such liability or expense.

(9) The regulations may contain provisions similar to the provisions of this section in relation to the importation into a Territory of the Commonwealth not forming part of the Commonwealth (other than importation from Australia or from another such Territory) of printed copies of published literary, dramatic or musical works.

## PART VI

### The Copyright Tribunal

#### Division I. — Preliminary

##### *Interpretation*

136. — (1) In this Part, unless the contrary intention appears —

“licence” means a licence granted by or on behalf of the owner or prospective owner of the copyright in a literary,

dramatic or musical work, or of the copyright in a sound recording, being —

- (a) in the case of a literary, dramatic or musical work — a licence to perform the work or an adaptation of the work in public, to broadcast the work or an adaptation of the work, to make a sound recording or cinematograph film of the work or of an adaptation of the work for the purpose of broadcasting the work or adaptation or to cause the work or an adaptation of the work to be transmitted to subscribers to a diffusion service; or
- (b) in the case of a sound recording — a licence to cause the recording to be heard in public or to make a record embodying the recording for the purpose of broadcasting the recording;

“licence scheme” means a scheme (including anything in the nature of a scheme, whether called a scheme or tariff or called by any other name) formulated by a licensor or licensors and setting out the classes of cases in which the licensor or each of the licensors is willing, or the persons on whose behalf the licensor or each of the licensors acts are willing, to grant licences and the charges (if any) subject to payment of which, and the conditions subject to which, licences would be granted in those classes of cases;

“licensor” means —

- (a) in relation to licences in respect of a literary, dramatic or musical work — the owner or prospective owner of the copyright in the work or any body of persons (whether corporate or unincorporate) acting as agent for the owner or prospective owner in relation to the negotiation or granting of such licences; and
- (b) in relation to licences in respect of a sound recording — the owner or prospective owner of the copyright in the recording or any body of persons (whether corporate or unincorporate) acting as agent for the owner or prospective owner in relation to the negotiation or granting of such licences;

“member” means a member of the Tribunal;

“order” includes an interim order;

“organization” means an organization or association of persons whether corporate or unincorporate;

“party” includes a person making representations to the Tribunal at an inquiry under section 148 of this Act;

“proceeding”, in relation to the Tribunal, includes an inquiry by the Tribunal under section 148 of this Act;

“the Deputy President” means the Deputy President of the Tribunal;

“the President” means the President of the Tribunal.

(2) In this Part —

- (a) a reference to conditions is a reference to any conditions other than conditions relating to the payment of a charge;
- (b) a reference to giving an opportunity to a person or organization of presenting a case is a reference to giving the person or organization an opportunity, at the option of

the person or organization, of submitting representations in writing, or of being heard, or of submitting representations in writing and being heard;

- (c) a reference to a person who requires a licence of a particular kind includes a reference to a person who holds a licence of that kind if the person will, at the expiration of the period for which the licence was granted, require a renewal of that licence or a grant of a further licence of the same kind; and
- (d) a reference to proceedings for infringement of copyright includes a reference to proceedings brought in respect of an alleged contravention of sub-section (5) of section 132 of this Act.

(3) For the purposes of this Part, a person shall not be taken not to require a licence to cause a sound recording to be heard in public by reason only of the operation of section 108 of this Act.

#### *Cases to which licence schemes apply*

137. — (1) For the purposes of this Part, a case shall, subject to the next succeeding sub-section, be deemed to be a case to which a licence scheme applies if, in accordance with a licence scheme for the time being in operation, a licence would be granted in that case.

(2) For the purposes of this Part, where, in accordance with a licence scheme —

- (a) the licences that would be granted would be subject to conditions by virtue of which particular matters would be excepted from the licences; and
- (b) a case relates to one or more matters falling within such an exception,
- that case shall be deemed not to be a case to which the scheme applies.

### **Division 2. — Constitution of the Tribunal**

#### *Constitution of Tribunal*

138. — There is hereby established a Copyright Tribunal, which shall consist of five members.

#### *Appointment of members of Tribunal*

139. — A member of the Tribunal shall be appointed by the Governor-General.

#### *Qualifications of members*

140. — A person shall not be appointed as a member unless he is or has been —

- (a) a justice or judge of a federal court or of the Supreme Court of a State; or
- (b) a barrister or solicitor of the High Court, or of the Supreme Court of a State or of a Territory of the Commonwealth, of not less than five years' standing.

#### *Tenure of office*

141. — A member holds office for such period, not exceeding seven years, as is specified in the instrument of his appointment, but is eligible for re-appointment.

#### *President and Deputy President of the Tribunal*

142. — (1) The Governor-General shall appoint one of the members of the Tribunal to be the President of the Tribunal and another of the members of the Tribunal to be the Deputy President of the Tribunal.

(2) The Deputy President shall act as President of the Tribunal during any vacancy in the office, or suspension, illness or absence, of the President.

#### *Remuneration and allowances*

143. — (1) A member shall be paid remuneration at such rate (if any) as the Governor-General determines, but the rate shall not be diminished during a term of office.

(2) A member shall be paid such allowances (if any) in respect of travelling expenses as the Attorney-General determines.

#### *Oath or affirmation of office*

144. — (1) A member shall, before proceeding to discharge the duties of his office, take an oath or make an affirmation in accordance with the form of oath or affirmation in the Schedule\* to this Act.

(2) An oath or affirmation shall be taken or made before a justice or judge of a federal court or of the Supreme Court of a State.

#### *Resignation*

145. — A member may resign his office by writing signed by him and delivered to the Governor-General.

#### *Sittings of the Tribunal*

146. — (1) Sittings of the Tribunal shall be held at such places and times as the President determines.

(2) Subject to the next succeeding sub-section, the Tribunal shall be constituted by a single member.

(3) Where —

- (a) the Tribunal holds an inquiry under section 148 of this Act; or
- (b) any party to an application or reference requests that the Tribunal be constituted by more than one member for the purposes of that application or reference,
- the Tribunal shall, for the purposes of the inquiry, application or reference, be constituted by not less than two members of whom one shall be the President or the Deputy President, but nothing in this sub-section prevents a single member exercising the powers of the Tribunal in relation to matters of procedure.

(4) At a proceeding before the Tribunal constituted by more than one member —

- (a) if the President is one of the members constituting the Tribunal — he shall preside; and
- (b) in any other case — the Deputy President shall preside.

(5) Where the Tribunal constituted by more than one member is divided in opinion on a question, the question shall be decided according to the decision of the majority, if there is a majority, but if the Tribunal as so constituted is equally

\* The Schedule is not reproduced herein.

divided in opinion, the question shall be decided according to the opinion of the President or, if he is not one of the members constituting the Tribunal, according to the opinion of the Deputy President.

(6) The Tribunal constituted by a member or members may sit and exercise the powers of the Tribunal notwithstanding that the Tribunal constituted by another member or other members is at the same time sitting and exercising those powers.

(7) The exercise of the powers of the Tribunal is not affected by a vacancy or vacancies in the membership of the Tribunal.

(8) Where a proceeding is commenced before the Tribunal constituted by two or more members and one of those members has become unable to continue to sit or has ceased to be a member, whether by death or otherwise, the remaining member or members may continue the hearing of the proceeding.

*President to arrange business of Tribunal*

147. — The President may give directions as to the arrangement of the business of the Tribunal and, subject to sub-section (3) of the last preceding section, as to the constitution of the Tribunal for the purposes of particular proceedings.

**Division 3. — Inquiries by, and Applications and References to, the Tribunal**

*Inquiries into royalty payable in respect of records of musical works*

148. — (1) This section applies where the Attorney-General requests the Tribunal in pursuance of section 58 of this Act to hold an inquiry in relation to the royalty, or the minimum royalty, payable in respect of records generally, or in respect of records included in a particular class of records.

(2) Where such a request is made, the Tribunal shall hold the inquiry and shall give every person or organization that the Tribunal is satisfied has a substantial interest in the matter to which the inquiry relates an opportunity of presenting a case to the Tribunal.

(3) As soon as practicable after the completion of the inquiry, the Tribunal shall make a report in writing to the Attorney-General setting out the result of the inquiry.

*Applications to Tribunal for determination of remuneration payable for making recording or film of a work*

149. — (1) This section applies where an application is made to the Tribunal in pursuance of sub-section (3) of section 47, or sub-section (3) of section 70, of this Act for the determination of an equitable remuneration to be paid to the owner of the copyright in a work for the making of a sound recording or cinematograph film of the work or of an adaptation of the work.

(2) The parties to an application in relation to which this section applies are —

- (a) the owner of the copyright in the work; and
- (b) the maker of the recording or film.

(3) Where an application in relation to which this section applies is made to the Tribunal, the Tribunal shall consider the application and, after giving to the parties to the application an opportunity of presenting their cases, shall make an order determining the amount that it considers to be equitable remuneration to the owner of the copyright for the making of the recording or film.

*Applications to Tribunal for determination of remuneration payable to owner of copyright in recording for making of record embodying the recording*

150. — (1) This section applies where an application is made to the Tribunal in pursuance of sub-section (3) of section 107 of this Act for the determination of an equitable remuneration to be paid to the owner of the copyright in a sound recording for the making of a record embodying the recording.

(2) The parties to an application in relation to which this section applies are —

- (a) the owner of the copyright in the recording; and
- (b) the maker of the record.

(3) Where an application in relation to which this section applies is made to the Tribunal, the Tribunal shall consider the application and, after giving to the parties to the application an opportunity of presenting their cases, shall make an order determining the amount that it considers to be equitable remuneration to the owner of the copyright for the making of the record.

*Applications to Tribunal for determination of remuneration payable to owner of copyright in recording in respect of public playing of the recording*

151. — (1) This section applies where an application is made to the Tribunal in pursuance of sub-section (1) of section 108 of this Act for the determination of an equitable remuneration to be paid to the owner of the copyright in a sound recording for the causing of the recording to be heard in public.

(2) The parties to an application in relation to which this section applies are —

- (a) the owner of the copyright in the recording; and
- (b) the person who caused the recording to be heard in public.

(3) Where an application in relation to which this section applies is made to the Tribunal, the Tribunal shall consider the application and, after giving to the parties to the application an opportunity of presenting their cases, shall make an order determining the amount that it considers to be equitable remuneration to the owner of the copyright for the causing of the recording to be heard in public.

*Applications to Tribunal for determination of amounts payable for broadcasting published sound recordings*

152. — (1) In this section, unless the contrary intention appears —

“Australia” does not include the Territories of the Commonwealth not forming part of the Commonwealth;

“broadcaster” means —

- (a) the Australian Broadcasting Commission;
- (b) the holder of a licence for a broadcasting station;
- (c) the holder of a licence for a television station; or
- (d) a person prescribed for the purposes of sub-paragraph (iii) of paragraph (a) or sub-paragraph (iii) of paragraph (b) of section 91 of this Act.

(2) Subject to this section, an application may be made to the Tribunal for an order determining, or making provision for determining, the amount payable by a broadcaster to the owners of copyrights in published sound recordings in respect of the broadcasting, during a period specified in the application, of those recordings by that broadcaster.

(3) An application under the last preceding sub-section may be made by the broadcaster or by the owner of a copyright in a published sound recording.

(4) The parties to an application under sub-section (2) of this section are —

- (a) the person making the application; and
- (b) such organizations or persons as apply to the Tribunal to be made parties to the application and, in accordance with the next succeeding sub-section, are made parties to the application.

(5) Where an organization (whether claiming to be representative of broadcasters or of the owners of copyrights in published sound recordings or not) or a person (whether a broadcaster or the owner of a copyright in a published sound recording or not) applies to the Tribunal to be made a party to an application under this section, and the Tribunal is satisfied that the organization or person has a substantial interest in the matter that is the subject of the application, the Tribunal may, if it thinks fit, make that organization or person a party to the application.

(6) The Tribunal shall consider an application under sub-section (2) of this section and, after giving the parties to the application an opportunity of presenting their cases, shall make an order —

- (a) determining, or making provision for determining, the amount payable by the broadcaster to the owners of copyrights in published sound recordings in respect of the broadcasting, during the period to which the order applies, by the broadcaster of those recordings;
- (b) specifying as the persons among whom that amount is to be divided such of the persons who were, or were represented by, parties to the application as the Tribunal is satisfied are the owners of copyrights in published sound recordings; and
- (c) specifying as the respective shares in that amount of the persons among whom that amount is to be divided and as the times at which those shares are to be paid such shares and times as those persons agree or, in default of agreement, as the Tribunal thinks equitable.

(7) In so making an order in relation to a broadcaster, the Tribunal shall take into account all relevant matters, including the extent to which the broadcaster uses, for the purposes of broadcasting, records embodying sound recordings (other than recordings in relation to which section 105 of this

Act applies) in which copyrights subsist, being copyrights owned by persons who are, or are represented by, parties to the application.

(8) The Tribunal shall not make an order that would require a broadcaster being the holder of a licence for a broadcasting station to pay, in respect of the broadcasting of published sound recordings during the period in relation to which the order applies, an amount exceeding one per centum of the amount determined by the Tribunal to be the gross earnings of the broadcaster during the period equal to the period in relation to which the order applies that ended on the thirtieth day of June last preceding the date of commencement of the period in relation to which the order applies.

(9) Where a broadcaster being the holder of a licence for a broadcasting station has, with the leave of the Australian Broadcasting Control Board under section 106 of the *Broadcasting and Television Act 1942-1967*, adopted an accounting period ending on a day other than the thirtieth day of June, the reference in the last preceding sub-section to the thirtieth day of June shall, in relation to that broadcaster, be read as a reference to that other day.

(10) Sub-section (8) of this section does not apply to an order in relation to a broadcaster unless —

- (a) the broadcaster establishes to the satisfaction of the Tribunal the amount of the gross earnings of the broadcaster during the period in respect of which those earnings are to be determined; and
- (b) the broadcaster carried on the transmission of programmes by way of sound broadcasting throughout the whole of that period.

(11) Where an application is made to the Tribunal under sub-section (2) of this section in relation to the Australian Broadcasting Commission, the Tribunal —

- (a) shall make separate orders in respect of sound broadcasts by the Commission of published sound recordings and in respect of television broadcasts by the Commission of such recordings; and
- (b) shall not make an order that would require the Commission to pay, in respect of sound broadcasts of published sound recordings during the period in relation to which the order applies, an amount exceeding the sum of —
  - (i) in respect of each complete year included in that period — the amount ascertained by multiplying one-half of One cent by the number equal to the number of persons comprised in the estimated population of Australia as last set out in statistics published by the Commonwealth Statistician before the making of the order; and
  - (ii) in respect of each part of a year included in that period — the amount that bears to the amount ascertained in accordance with the last preceding sub-paragraph in relation to a complete year the same proportion as that part of a year bears to a complete year.

(12) A person who is not specified in an order in force under sub-section (6) of this section as one of the persons among whom the amount specified in, or determined in ac-

cordance with, the order is to be divided may, before the expiration of the period to which the order applies, apply to the Tribunal for an amendment of the order so as to specify him as one of those persons.

(13) The parties to an application under the last preceding sub-section for an amendment of an order are —

- (a) the person making the application;
- (b) the broadcaster in relation to whom the order applies;
- (c) the persons specified in the order as the persons among whom the amount specified in, or determined in accordance with, the order is to be divided; and
- (d) such organizations or persons as apply to the Tribunal to be made parties to the application and, in accordance with sub-section (5) of this section, are made parties to the application.

(14) The Tribunal shall consider an application under sub-section (12) of this section for an amendment of an order in force under sub-section (6) of this section (in this sub-section referred to as "the principal order") and, after giving the parties to the application an opportunity of presenting their cases, shall, if it is satisfied that the applicant is the owner of the copyright or copyrights in one or more published sound recordings, make an order amending the principal order so as to —

- (a) specify the applicant as one of the persons among whom the amount specified in, or determined in accordance with, the principal order is to be divided; and
- (b) specify as the share of the applicant in that amount and as the times at which that share is to be paid such share and times as the applicant and the other persons among whom that amount is to be divided agree or, in default of agreement, as the Tribunal thinks equitable and make any consequential alterations in respect of the shares of those other persons.

(15) An order of the Tribunal made under sub-section (6) of this section in relation to a broadcaster applies in relation to the period commencing on the date specified in the order and ending on the thirtieth day of June next succeeding the date of making of the order.

(16) The date that may be so specified in an order of the Tribunal made under sub-section (6) of this section in relation to a broadcaster may be a date before the date of making of the order or before the date of making of the application but shall not be a date before the date of expiration of the period in relation to which the last preceding order (if any) of the Tribunal made under that sub-section in relation to that broadcaster applied or before the date of commencement of this Act.

(17) An order of the Tribunal made under sub-section (14) of this section amending an order of the Tribunal made under sub-section (6) of this section applies in relation to the period commencing on the date of making of the amending order and ending on the date of expiration of the period in relation to which the order that is being amended applies.

(18) Where an order of the Tribunal is in force under this section, the broadcaster in relation to whom the order applies is liable to pay to each of the persons specified in the order as the persons among whom the amount specified in, or

determined in accordance with, the order is to be divided the share so specified in relation to that person and is so liable to pay that share at the times so specified and that person may recover any amount that is not paid in accordance with the order in a court of competent jurisdiction from the broadcaster as a debt due to the person.

(19) For the purposes of this section, the gross earnings of a broadcaster in respect of a period are the gross earnings of the broadcaster during that period in respect of the broadcasting by him of advertisements or other matter, including the gross earnings of the broadcaster during that period in respect of the provision by him of, or otherwise in respect of, matter broadcast by him.

(20) Where, in connection with a transaction, any consideration is paid or given otherwise than in cash, the money value of that consideration shall, for the purposes of the last preceding sub-section, be deemed to have been paid or given.

(21) Where the Tribunal is of the opinion that —

- (a) an amount, or part of an amount, earned during any period by a person other than a broadcaster would, if the broadcaster and that person were the same person, form part of the gross earnings of the broadcaster in respect of that period for the purposes of this section; and
- (b) a relationship exists between the broadcaster and the other person (whether by reason of any shareholding or of any agreement or arrangement, or for any other reason) of such a kind that the amount or the part of the amount, as the case may be, should, for the purposes of this section, be treated as part of the gross earnings of the broadcaster in respect of that period,

the Tribunal may so treat the amount or the part of the amount, as the case may be.

*Applications to Tribunal for apportionment of royalty  
in respect of a record*

153. — (1) This section applies where an application is made to the Tribunal in pursuance of paragraph (b) of sub-section (3) of section 59 of this Act for an apportionment of an amount payable in respect of a record between the owner of the copyright in a musical work and the owner of the copyright in a literary or dramatic work.

(2) The parties to an application in relation to which this section applies are —

- (a) the owner of the copyright in the musical work; and
- (b) the owner of the copyright in the literary or dramatic work.

(3) Where an application in relation to which this section applies is made to the Tribunal, the Tribunal shall consider the application and, after giving to the parties to the application an opportunity of presenting their cases, shall make an order apportioning the amount to which the application relates between the parties in such manner as it thinks equitable.

*Reference of proposed licence schemes to Tribunal*

154. — (1) Where a licensor proposes to bring a licence scheme into operation, he may refer the scheme to the Tribunal.

(2) The parties to a reference under this section are —

- (a) the licensor referring the scheme; and
- (b) such organizations or persons (if any) as apply to the Tribunal to be made parties to the reference and, in accordance with the next succeeding sub-section, are made parties to the reference.

(3) Where an organization (whether claiming to be representative of persons requiring licences or not) or a person (whether requiring a licence or not) applies to the Tribunal to be made a party to a reference, and the Tribunal is satisfied that the organization or person has a substantial interest in the operation of the scheme to which the reference relates, the Tribunal may, if it thinks fit, make that organization or person a party to the reference.

(4) The Tribunal shall consider a scheme referred under this section and, after giving to the parties to the reference an opportunity of presenting their cases, shall make such order, either confirming or varying the scheme, as the Tribunal considers reasonable in the circumstances.

(5) An order (other than an interim order) of the Tribunal under this section may, notwithstanding anything contained in the licence scheme to which it relates, be made so as to be in force either indefinitely or for such period as the Tribunal thinks fit.

(6) Where a licence scheme has been referred to the Tribunal under this section, the licensor may do either or both of the following things:

- (a) bring the scheme into operation before the Tribunal makes an order in pursuance of the reference;
- (b) withdraw the reference at any time before the Tribunal makes an order in pursuance of the reference, whether the scheme has been brought into operation or not.

(7) If the scheme is not brought into operation before an order is made in pursuance of the reference, the scheme as confirmed or varied by the order comes into operation, notwithstanding anything contained in the scheme, forthwith upon the making of the order.

(8) After the making of an order in pursuance of the reference, the scheme as confirmed or varied by the order remains in operation, notwithstanding anything contained in the scheme, so long as the order remains in force.

#### *Reference of existing licence schemes to Tribunal*

155. — (1) Where, at any time while a licence scheme is in operation, a dispute arises with respect to the terms of the scheme between the licensor operating the scheme and —

- (a) an organization claiming to be representative of persons requiring licences in cases included in a class of cases to which the scheme applies; or
- (b) any person claiming that he requires a licence in a case included in a class of cases to which the scheme applies, the licensor, organization or person concerned may refer the scheme to the Tribunal in so far as the scheme relates to cases included in that class.

(2) The parties to a reference under this section are —

- (a) the licensor, organization or person referring the scheme;

(b) if the reference is not made by the licensor operating the scheme — that licensor; and

(c) such other organizations or persons (if any) as apply to the Tribunal to be made parties to the reference and, in accordance with the next succeeding sub-section, are made parties to the reference.

(3) Where an organization (whether claiming to be representative of persons requiring licences or not) or a person (whether requiring a licence or not) applies to the Tribunal to be made a party to a reference, and the Tribunal is satisfied that the organization or person has a substantial interest in the matter in dispute, the Tribunal may, if it thinks fit, make that organization or person a party to the reference.

(4) The Tribunal shall not begin to consider a reference under this section by an organization unless the Tribunal is satisfied that the organization is reasonably representative of the class of persons that it claims to represent.

(5) Subject to the last preceding sub-section, where a licence scheme is referred to the Tribunal under this section, the Tribunal shall consider the matter in dispute and, after giving to the parties to the reference an opportunity of presenting their cases, shall make such order, either confirming or varying the scheme, in so far as it relates to cases included in the class of cases to which the reference relates, as the Tribunal considers reasonable in the circumstances.

(6) An order (other than an interim order) of the Tribunal under this section may, notwithstanding anything contained in the licence scheme to which it relates, be made so as to be in force either indefinitely or for such period as the Tribunal thinks fit.

(7) A reference of a licence scheme to the Tribunal under this section may be withdrawn at any time before an order is made in pursuance of the reference.

(8) Where a licence scheme has been referred to the Tribunal under this section, the scheme remains in operation, notwithstanding anything contained in the scheme, until the Tribunal makes an order in pursuance of the reference.

(9) The last preceding sub-section does not apply in relation to a reference with respect to any period after the reference has been withdrawn or after the Tribunal has refused to begin to consider the reference in pursuance of sub-section (4) of this section.

(10) After the making of an order in pursuance of the reference, the scheme as confirmed or varied by the order remains in operation, notwithstanding anything contained in the scheme, so long as the order remains in force.

#### *Further reference of licence schemes to Tribunal*

156. — (1) Where the Tribunal has made an order (other than an interim order) under either of the last two preceding sections with respect to a licence scheme, then, subject to the next succeeding sub-section, at any time while the order remains in force —

- (a) the licensor operating the scheme;
- (b) any organization claiming to be representative of persons requiring licences in cases included in the class of cases to which the order applies; or

(c) any person claiming that he requires a licence in a case included in that class,

may refer the scheme again to the Tribunal in so far as it relates to cases included in that class.

(2) A licence scheme shall not, except with the leave of the Tribunal, be referred again to the Tribunal under the last preceding sub-section at a time earlier than —

- (a) where the order concerned was made so as to be in force indefinitely or for a period exceeding fifteen months — the expiration of the period of twelve months commencing on the date on which the order was made; or
- (b) where the order concerned was made so as to be in force for a period not exceeding fifteen months — the commencement of the period of three months ending on the date of expiration of the order.

(3) The parties to a reference under this section are —

- (a) the licensor, organization or person referring the scheme;
- (b) if the reference is not made by the licensor operating the scheme — that licensor; and
- (c) such other organizations or persons (if any) as apply to the Tribunal to be made parties to the reference and, in accordance with the provisions applicable in that behalf by virtue of sub-section (5) of this section, are made parties to the reference.

(4) Subject to the next succeeding sub-section, where a licence scheme is referred to the Tribunal under this section, the Tribunal shall consider the matter in dispute and, after giving to the parties to the reference an opportunity of presenting their cases, shall make such order in relation to the scheme as previously confirmed or varied, in so far as it relates to cases included in the class of cases to which the reference relates, whether by way of confirming, varying or further varying the scheme, as the Tribunal considers reasonable in the circumstances.

(5) Sub-sections (3), (4) and (6) to (10), inclusive, of the last preceding section apply for the purposes of this section.

(6) The preceding sub-sections of this section have effect in relation to orders made under this section in like manner as they have effect in relation to orders made under either of the last two preceding sections.

(7) Nothing in this section prevents a licence scheme in respect of which an order has been made under either of the last two preceding sections from being again referred to the Tribunal under that section —

- (a) in so far as the scheme relates to cases included in a class of cases to which the order does not apply — at any time; and
- (b) in so far as the scheme relates to cases included in the class of cases to which the order applied while it was in force — after the expiration of the order.

#### *Applications to Tribunal in relation to licences*

157. — (1) A person who claims, in a case to which a licence scheme applies, that the licensor operating the scheme has refused or failed to grant him a licence in accordance with the scheme, or to procure the grant to him of such a licence, may apply to the Tribunal under this section.

(2) A person who claims, in a case to which a licence scheme applies, that he requires a licence but that the grant of a licence in accordance with the scheme would, in that case, be subject to the payment of charges, or to conditions, that are not reasonable in the circumstances of the case may apply to the Tribunal under this section.

(3) A person who claims that he requires a licence in a case to which a licence scheme does not apply (including a case where a licence scheme has not been formulated or is not in operation) and —

- (a) that a licensor has refused or failed to grant the licence, or to procure the grant of the licence, and that in the circumstances it is unreasonable that the licence should not be granted; or
  - (b) that a licensor proposes that the licence should be granted subject to the payment of charges, or to conditions, that are unreasonable,
- may apply to the Tribunal under this section.

(4) An organization that claims that it is representative of persons requiring licences in cases to which a licence scheme does not apply (including cases where a licence scheme has not been formulated or is not in operation) and —

- (a) that a licensor has refused or failed to grant the licences, or to procure the grant of the licences, and that in the circumstances it is unreasonable that the licences should not be granted; or
  - (b) that a licensor proposes that the licences should be granted subject to the payment of charges, or to conditions, that are unreasonable,
- may apply to the Tribunal under this section.

(5) Where an organization (whether claiming to be representative of persons requiring licences or not) or a person (whether requiring a licence or not) applies to the Tribunal to be made a party to an application under any of the preceding sub-sections of this section, and the Tribunal is satisfied that the organization or person has a substantial interest in the matter in dispute, the Tribunal may, if it thinks fit, make that organization or person a party to the application.

(6) Where an application is made to the Tribunal under sub-section (1), (2), (3) or (4) of this section, the Tribunal shall give to the applicant, to the licensor concerned and to every other party (if any) to the application an opportunity of presenting their cases and, if the Tribunal is satisfied that the claim of the applicant is well-founded, the Tribunal shall make an order specifying, in respect of the matters specified in the order —

- (a) in the case of an application under sub-section (1) of this section — the charges, if any, and the conditions, that the Tribunal considers to be applicable in accordance with the licence scheme in relation to the applicant;
- (b) in the case of an application under sub-section (2) or sub-section (3) of this section — the charges, if any, and the conditions, that the Tribunal considers reasonable in the circumstances in relation to the applicant; or
- (c) in the case of an application under sub-section (4) of this section — the charges, if any, and the conditions, that the Tribunal considers reasonable in the circumstances

in relation to persons, or to persons included in classes of persons, specified in the order, being persons who were represented by the applicant or were parties to the application.

(7) A reference in this section to a failure to grant a licence, or to procure the grant of a licence, shall be read as a reference to a failure to grant the licence, or to procure the grant of the licence, as the case may be, within a reasonable time after a request to do so.

*Effect of licence scheme being continued in operation pending order of the Tribunal*

158. — (1) Where a licence scheme is in operation by virtue of this Part pending the making of an order on a reference under this Part and a person, in a case to which the scheme applies, does anything that, apart from this sub-section, would be an infringement of a copyright but would not be such an infringement if he were the holder of a licence granted in accordance with the scheme in so far as the scheme relates to cases to which the reference relates, that person shall, if he has complied with the relevant requirements, be in the like position, in any proceedings for infringement of that copyright, as if he had at the material time been the holder of such a licence.

(2) For the purposes of the last preceding sub-section, the relevant requirements are —

- (a) that, at all material times, the person concerned has complied with the conditions that, in accordance with the licence scheme, would be applicable to a licence in respect of the case concerned; and
- (b) where, in accordance with the scheme, any charges are payable in respect of such a licence — that, at the material time, he had paid those charges to the licensor operating the scheme, or, if at that time the amount payable could not be ascertained, he had given an undertaking in writing to the licensor to pay the charges when ascertained.

(3) A person who does anything in relation to which sub-section (1) of this section applies is liable to pay to the licensor operating the licence scheme concerned the amount of any charges that would be payable if he were the holder of a licence granted in accordance with the scheme in so far as the scheme relates to the doing of that thing and the licensor may recover that amount in a court of competent jurisdiction from the person as a debt due to the licensor.

*Effect of order of Tribunal in relation to licences*

159. — (1) Where an order made on a reference under this Part with respect to a licence scheme is for the time being in force and a person, in a case to which the scheme as confirmed or varied by the order applies, does anything that, apart from this sub-section, would be an infringement of copyright but would not be such an infringement if he were the holder of a licence granted in accordance with the scheme, as confirmed or varied by the order, in so far as the scheme relates to cases to which the order applies, that person shall, if he has complied with the relevant requirements, be in the

like position, in any proceedings for infringement of that copyright, as if he had at the material time been the holder of such a licence.

(2) For the purposes of the last preceding sub-section, the relevant requirements are —

- (a) that, at all material times, the person concerned has complied with the conditions that, in accordance with the licence scheme as confirmed or varied by the order, would be applicable to a licence in respect of the case concerned; and
- (b) where, in accordance with the scheme as so confirmed or varied, any charges are payable in respect of such a licence — that, at the material time, he had paid those charges to the licensor operating the scheme, or, if at that time the amount payable could not be ascertained, he had given an undertaking in writing to the licensor to pay the charges when ascertained.

(3) A person who does anything in relation to which sub-section (1) of this section applies is liable to pay to the licensor operating the licence scheme concerned the amount of any charges that would be payable if he were the holder of a licence granted in accordance with the scheme, as confirmed or varied by the order, in so far as the scheme relates to the doing of that thing and the licensor may recover that amount in a court of competent jurisdiction from the person as a debt due to the licensor.

(4) Where the Tribunal has made an order on an application under sub-section (1), sub-section (2) or sub-section (3) of section 157 of this Act specifying charges, if any, and conditions, in relation to the applicant, in respect of the matters specified in the order, then if —

- (a) the applicant has complied with the conditions specified in the order; and
- (b) in a case where the order specifies any charges — he has paid those charges to the licensor or, if the amount payable could not be ascertained, has given to the licensor an undertaking in writing to pay the charges when ascertained,

the applicant shall be in the like position, in any proceedings for infringement of copyright relating to any of those matters, as if he had at all material times been the holder of a licence granted by the owner of the copyright concerned on the conditions, and subject to payment of the charges (if any), specified in the order.

(5) Where the Tribunal has made an order on an application under sub-section (4) of section 157 of this Act specifying charges (if any) and conditions, in relation to the persons, or to persons included in the classes of persons, specified in the order, in respect of matters specified in the order, then, if —

- (a) any such person has complied with the conditions specified in the order; and
- (b) in a case where the order specifies any charges — the person has paid those charges to the licensor or, if the amount payable could not be ascertained, has given to the licensor an undertaking in writing to pay the charges when ascertained,

that person shall be in the like position, in any proceedings for infringement of copyright relating to any of those matters, as if he had at all material times been the holder of a licence granted by the owner of the copyright concerned on the conditions, and subject to payment of the charges (if any), specified in the order.

(6) Where a person in relation to whom an order referred to in sub-section (4) or sub-section (5) of this section applies does, in relation to any of the matters specified in that order, anything that, apart from that sub-section, would be an infringement of copyright but would not be such an infringement if he were the holder of a licence in respect of the doing of that thing granted by the owner of the copyright concerned on the conditions and subject to payment of the charges (if any) specified in the order, that person is liable to pay to the owner of the copyright the amount of any charges that would be payable if he were the holder of such a licence and the owner of the copyright may recover that amount in a court of competent jurisdiction from the person as a debt due to the owner of the copyright.

#### *Interim orders*

160. — Where an application or reference is made to the Tribunal under this Act, the Tribunal may make an interim order having effect until the final decision of the Tribunal on the application or reference.

#### *Reference of questions of law to High Court*

161. — (1) The Tribunal may, of its own motion or at the request of a party, refer a question of law arising in proceedings before it for determination by the High Court.

(2) A question shall not be referred to the High Court by virtue of the last preceding sub-section in pursuance of a request made after the date on which the Tribunal gave its decision in the proceedings unless the request is made before the expiration of such period as is prescribed.

(3) If the Tribunal, after giving its decision in any proceedings, refuses a request to refer a question to the High Court, the party by whom the request was made may, within such period as is prescribed, apply to the High Court for an order directing the Tribunal to refer the question to the High Court.

(4) Where a reference is made to the High Court under this section with respect to any proceedings before the Tribunal, and where an application is made under the last preceding sub-section with respect to any such proceedings, every party to the proceedings before the Tribunal is entitled to appear and to be heard.

(5) Where, after the Tribunal has given its decision in any proceedings, the Tribunal refers to the High Court under this section a question of law that arose in the course of the proceedings, and the High Court decides that the question was erroneously determined by the Tribunal —

(a) the Tribunal shall reconsider the matter in dispute and, if it considers it necessary to do so for the purpose of giving effect to the decision of the High Court, shall give

to the parties to the proceedings a further opportunity of presenting their cases; and

(b) if it appears to the Tribunal to be appropriate, and in conformity with the decision of the High Court, to do so, the Tribunal shall make such order revoking or modifying any order previously made by it in the proceedings, or, in the case of proceedings under section 157 of this Act where the Tribunal refused to make an order, shall make such order under that section, as the Tribunal considers to be appropriate.

(6) A reference of a question by the Tribunal to the High Court under this section shall be by way of stating a case for the opinion of the High Court.

(7) Jurisdiction is conferred on the High Court to hear and determine a question of law referred to it under this section.

(8) For the purposes of this section, a question of law does not include a question whether there is sufficient evidence to justify a finding of fact by the Tribunal.

(9) This section does not apply in relation to an inquiry by the Tribunal under section 148 of this Act.

#### *Agreements or awards not affected*

162. — Nothing in this Part affects the operation of any agreement or of any award made by an arbitrator, whether the agreement or award was made before, or is made after, the commencement of this Act.

#### *Division 4. — Procedure and Evidence*

##### *Proceedings to be in public except in special circumstances*

163. — (1) Subject to this section, the hearing of proceedings before the Tribunal shall be in public.

(2) Where the Tribunal is satisfied that it is desirable to do so by reason of the confidential nature of any evidence or matter or for any other reason, the Tribunal may —

- (a) direct that a hearing or part of a hearing shall take place in private and give directions as to the persons who may be present; or
- (b) give directions prohibiting or restricting the publication of evidence given before the Tribunal (whether in public or in private) or of matters contained in documents produced to the Tribunal.

#### *Procedure*

164. — In proceedings before the Tribunal —

- (a) the procedure of the Tribunal is, subject to this Act and the regulations, within the discretion of the Tribunal;
- (b) the Tribunal is not bound by the rules of evidence; and
- (c) the proceedings shall be conducted with as little formality, and with as much expedition, as the requirements of this Act and a proper consideration of the matters before the Tribunal permit.

#### *Mistakes or errors in orders of the Tribunal*

165. — The Tribunal may correct, in any order of the Tribunal, a clerical mistake or an error arising from an accidental slip or omission.

*Regulations as to procedure*

166. — (1) The regulations may make provision for or in relation to the procedure in connection with the making of references and applications to the Tribunal and the regulation of proceedings before the Tribunal and may prescribe the fees payable in respect of those references and applications and the fees and expenses of witnesses in those proceedings.

(2) The regulations may include provision —

- (a) for requiring notice of an intended inquiry by the Tribunal under section 148 of this Act or an intended reference to the Tribunal under section 154, section 155 or section 156 of this Act to be advertised in accordance with the regulations;
- (b) for requiring notice of an intended application to the High Court under sub-section (3) of section 161 of this Act to be given to the Tribunal and to the other parties to the proceedings, and for limiting the time within which any such notice is to be given;
- (c) for suspending, or authorizing or requiring the Tribunal to suspend the operation of orders of the Tribunal in cases where, after giving its decision, the Tribunal refers a question of law to the High Court;
- (d) for modifying, in relation to orders of the Tribunal the operation of which is suspended, the operation of any provisions of this Part as to the effect of orders made under this Part;
- (e) for the publication of notices, or the doing of any other things, to ensure that persons affected by the suspension of an order of the Tribunal will be informed of its suspension; and
- (f) for regulating or prescribing any other matters incidental to or consequential upon any request, application, order or decision under section 161 of this Act.

*Power to take evidence on oath*

167. — (1) The Tribunal may take evidence on oath or affirmation, and for that purpose a member may administer an oath or affirmation.

(2) A member may summon a person to appear before the Tribunal to give evidence and to produce such documents and articles (if any) as are referred to in the summons.

*Evidence in form of written statement*

168. — The Tribunal may, if it thinks fit, permit a person appearing as a witness before the Tribunal to give evidence by tendering, and verifying by oath or affirmation, a written statement, which shall be filed with the Secretary to the Tribunal.

*Representation*

169. — In proceedings before the Tribunal —

- (a) a party other than a body corporate or an unincorporated body of persons may appear in person or be represented by an employee of the party approved by the Tribunal;
- (b) a party being a body corporate may be represented by a director or other officer, or by an employee, of the party approved by the Tribunal;

- (c) a party being an unincorporated body of persons or a member of such a body may be represented by a member, or by an officer or employee, of the body approved by the Tribunal; and
- (d) any party may be represented by a barrister or solicitor of the High Court or of the Supreme Court of a State or of a Territory of the Commonwealth.

*Division 5. — Miscellaneous*

*Secretary and other staff*

170. — (1) There shall be a Secretary to the Tribunal, who shall be appointed by the Attorney-General.

(2) The Secretary, and any other staff necessary to assist the Tribunal, shall be persons employed under, or whose services are made available in accordance with arrangements made under, the *Public Service Act 1922-1968*.

*Protection of members, barristers and witnesses*

171. — (1) A member has, in the performance of his duty as a member, the same protection and immunity as a Justice of the High Court.

(2) A barrister, solicitor or other person appearing before the Tribunal on behalf of a party has the same protection and immunity as a barrister has in appearing for a party in proceedings in the High Court.

(3) A person summoned to appear before the Tribunal as a witness has the same protection, and is, in addition to the penalties provided by this Act, subject to the same liabilities, in any civil or criminal proceedings as a witness in proceedings in the High Court.

*Disobedience to summons, etc.*

172. — (1) A person who has been summoned to appear as a witness before the Tribunal shall not, without lawful excuse, and after tender of reasonable expenses, fail to appear in obedience to the summons.

(2) A person who has been summoned to produce a document or article to the Tribunal shall not, without lawful excuse, and after tender of reasonable expenses, fail to produce the document or article.

(3) A person who appears before the Tribunal shall not, without lawful excuse, refuse to be sworn or to make an affirmation, or to produce documents or articles, or to answer questions, that he is required by the Tribunal to produce or answer.

Penalty: One thousand dollars or imprisonment for three months.

*Contempt of Tribunal, etc.*

173. — A person shall not —

- (a) insult or disturb a member in the exercise of his powers or functions as a member;
- (b) interrupt the proceedings of the Tribunal;
- (c) use insulting language towards a member;
- (d) create a disturbance or take part in creating or continuing a disturbance in or near a place where the Tribunal is sitting;

- (e) contravene or fail to comply with a direction of the Tribunal given under paragraph (b) of sub-section (2) of section 163 of this Act; or
- (f) do any other act or thing that would, if the Tribunal were a court of record, constitute a contempt of that court.

Penalty: One thousand dollars or imprisonment for three months.

#### *Cost of proceedings*

174. — (1) The Tribunal may order that the costs of any proceedings before it incurred by any party, or a part of those costs, shall be paid by any other party and may tax or settle the amount of the costs to be so paid, or specify the manner in which they are to be taxed.

(2) Costs directed by the Tribunal to be paid to a party may be recovered by that party in any court of competent jurisdiction.

(3) This section does not apply in relation to an inquiry by the Tribunal under section 148 of this Act.

#### *Proof of orders of Tribunal*

175. — Without prejudice to any other method available by law for the proof of orders of the Tribunal, a document purporting to be a copy of such an order, and to be certified by the Secretary to the Tribunal to be a true copy of the order, is, in any proceeding, evidence of the order.

*(To be continued)*

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## BOOK REVIEWS

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*Die Weiterverbreitung von Radio- und Fernsehsendungen (Zur Frage ihrer urheberrechtlichen Zulässigkeit und praktischen Durchführbarkeit)*, by Dr. Hermann J. Stern. One volume of 135 pages, 22.5×15.5 cm. Zurich, Verlag Schulthess & Co. AG, 1970.

Published in the series "Zürcher Beiträge zur Rechtswissenschaft," Neue Folge, Volume 343, this thesis by Dr. H. J. Stern about "The further communication of radio and television broadcasts" contains a comprehensive study on the legal aspects of communication to the public of radio and television broadcasts by means of loudspeakers, radio or television receivers, community antennae, rebroadcasting and relaying of broadcasts.

The study deals with the problem from the point of view of existing international conventions, i. e. the Berne Convention and the Rome Convention of 1961, as well as from the point of view of the Swiss national legislation. A comparative study, dealing with the situations in France, Germany, Austria, Italy, the Netherlands and Belgium for Berne Union countries and in the United States of America as an important non-Union country gives wider interest to the book.

The legal situation of persons in title other than copyright owners is treated not only under the Rome Convention of 1961 but also from the point of view of other provisions, such as general provisions on the protection of the right of the personality or unjust enrichment.

General remarks are devoted to contracts passed between a broadcasting organization and performing artists, organizers of entertainment, sheet music distributors and publishers, and with news agencies, with references to model contracts and studies made by the European Broadcasting Union and its respective partners.

The practical side of the protection of copyright, as assured by performing rights societies in Switzerland, France, Italy, Austria and Germany, as well as defence of the rights by the individual copyright holder himself are treated in a special chapter.

Proposals for solutions of problems, which escape satisfactory control under the existing system, form the contents of the last chapter.

The book is written in a clear style, is very well documented and contains even the most recent developments in the case law of the countries dealt with. In spite of some minor inaccuracies in the interpretation of the international conventions, it may be considered a useful source of information in respect of the countries mentioned therein. V. S.

*Urheberrecht der Deutschen Demokratischen Republik* [Copyright in the German Democratic Republic], a collective work by several authors under the supervision of Professor Dr. habil. Heinz Püschel, Law Department of the Humboldt University, Berlin. One volume of 625 pages, 20.5×14 cm. Berlin, Staatsverlag der Deutschen Demokratischen Republik, 1969.

Six authors, including Professor Dr. Heinz Püschel who assumed the supervision of the work, present a commentary on the new copyright law of the German Democratic Republic four years after its entry into force (an English translation of the law was published in this review, 1966, pp. 150 *et seq.*). The text of the commentary goes up to 1968, and does not mention events which occurred after that date (for instance, among the laws of the Socialist countries, to which § 3 of Chapter 1 is devoted, there is no mention of the new Hungarian Law, but only of the preparatory work for it). In connection with copyright in Western European countries, the authors concentrate most of their attention on the law of the Federal Republic of Germany.

The twenty chapters are devoted to the historical origins of copyright and a comparison of the fundamental ideas and legal conceptions in Socialist and other countries. Special chapters deal with the concept of the work, the author, the author's prerogatives and the free utilization of protected works. Legal doctrine in the German Democratic Republic accepts neither the definition of copyright as an intellectual property right nor the other features of the theory of Western European countries. Its own definition is as follows: "Subjective copyright is therefore a personal, socialist and specific right whose purpose is to give the author recognition and encouragement on behalf of the State and society, which corresponds to the cultural policy of the Power of the workers and peasants" (page 64). The pages on contracts for the use of works provide interesting details on publishing contracts (for musical as well as literary works), contracts for translation and adaptation and for the publication of works of figurative art, licence contracts, publication in the press and authors' contracts in the fields of cinema, radio, television and sound reproduction. It should be noted that the German Democratic Republic has not adopted the system, in use in the majority of the other countries of Eastern Europe, whereby the remuneration of authors of published works is based on schemes of fixed rates and calculated according to the number of characters printed.

The German Democratic Republic considers itself a member of the Berne Union (the countries of the Union are in disagreement on this point); the chapters dealing with contracts for the use of works will therefore also be of interest to authors or their successors in title who are nationals of the other countries of the Union.

A chapter is devoted to the protection of performing artists, which is covered by the new law. The German Democratic Republic did not accede to the 1961 Rome Convention. Under the new legislation it could do so, subject to certain reservations which are permissible under the Convention, on condition, however, that the period of protection, limited to ten years by the present law, is extended at least to the minimum prescribed by the Convention. (It should be noted that the German Democratic Republic, with Czechoslovakia and — to a lesser extent — Hungary, is one of the three Socialist countries of Eastern Europe which provide

for the protection of neighbouring rights.) The protection of photographic works, geographical maps and similar works is treated as the protection of rights related to copyright.

The history and fundamental principles of the Berne Convention and the Universal Copyright Convention (the German Democratic Republic has not deposited an instrument of accession to the latter) are clearly presented. The Montevideo Convention is also mentioned. A succinct explanation is given of the reasons for which the German Democratic Republic does not consider itself bound by the treaty of January 15, 1892, with the United States of America, and why in this instance reciprocity also does not apply.

An alphabetical index simplifies consultation of this first exhaustive commentary published in the German Democratic Republic, which has been approved for teaching in universities. V. S.

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## CALENDAR

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### WIPO Meetings

**November 23 to 27, 1970 (Geneva) — Joint ad hoc Committee on the International Classification of Patents — Working Group V \***

**November 30 to December 4, 1970 (Geneva) — Provisional Committee of Experts for the International Classification of Industrial Designs**

*Members:* Signatory States of the Locarno Agreement

**December 7 to 9, 1970 (Geneva) — ICIREPAT — Technical Coordination Committee**

**January 18 to 22, 1971 (The Hague) — Joint ad hoc Committee on the International Classification of Patents — Working Group III \***

**January 25 to 29, 1971 (The Hague) — Joint ad hoc Committee on the International Classification of Patents — Working Group IV \***

**February 8 to 13, 1971 (Geneva) — Patent Cooperation Treaty (PCT) — Financing Working Group**

*Members:* Canada, France, Germany (Fed. Rep.), Italy, Japan, Netherlands, Soviet Union, Sweden, Switzerland, United Kingdom, United States of America

**February 8 to 13, 1971 (Geneva) — Patent Cooperation Treaty (PCT) — Interim Committee for Technical Assistance, Interim Committee for Technical Cooperation and Interim Advisory Committee for Administrative Questions**

*Members:* Signatory States of the PCT

**February 8 to 12, 1971 (Moscow) — Joint ad hoc Committee on the International Classification of Patents — Working Group I \***

**February 15 to 19, 1971 (Munich) — Joint ad hoc Committee on the International Classification of Patents — Working Group II \***

**February 15 and 16, 1971 (Geneva) — Group of Consultants on International Registration of Marks**

*Invitations:* Representatives of Industry and Commerce

**February 17 and 18, 1971 (Geneva) — Group of Consultants on International Registration of Marks**

*Invitations:* Algeria, Austria, France, Germany (Fed. Rep.), Hungary, Japan, Netherlands, Soviet Union, Sweden, Switzerland, United Kingdom, United States of America

**February 19, 1971 (Geneva) — Group of Consultants on International Registration of Marks**

*Invitations:* Representatives of Trademark Attorneys and Agents

**February 22 to 26, 1971 (Geneva) — Committee of Experts on the Protection of Type Faces**

*Object:* Study of a preliminary draft Agreement — *Invitations:* Member States of the Paris Union and organizations concerned

**March 1 to 5, 1971 (Paris) — Committee of Experts on the Protection of Phonograms**

*Object:* Preparation of a draft international instrument — *Invitations:* Member States of the Berne Union, Member States of the Paris Union, States party to the Universal Copyright Convention — *Observers:* Other States, members of the United Nations or of a Specialized Agency; Intergovernmental and non-governmental organizations concerned — *Note:* Meeting convened jointly with Unesco

**March 15 to 24, 1971 (Strasbourg) — Diplomatic Conference on the International Classification of Patents \***

*Object:* Adoption of a new Agreement — *Invitations:* Member States of the Paris Union and of the Council of Europe — *Observers:* Other States, members of the United Nations or of a Specialized Agency; Intergovernmental and non-governmental organizations concerned

\* Meeting convened jointly with the Council of Europe.

- April 13 and 14, 1971 (Geneva) — ICIREPAT — Technical Committee III (Advanced Computer Techniques)
- April 15 and 16, 1971 (Geneva) — ICIREPAT — Technical Committee II (Technical Fields: Forward Planning)
- April 19 to 21, 1971 (Geneva) — ICIREPAT — Technical Committee I (Retrieval Systems, Designs and Testing)
- April 21 to 23, 1971 (Geneva) — ICIREPAT — Technical Committee VI (Systems Implementation)
- April 22 and 23, 1971 (Geneva) — ICIREPAT — Advisory Board for Cooperative Systems
- April 26 to 28, 1971 (Geneva) — ICIREPAT — Technical Committee V (Patent Format and Printing)
- April 29 and 30, 1971 (Geneva) — ICIREPAT — Technical Committee IV (Microform)
- April 21 to 30, 1971 (Lausanne) — Committee of Experts on the Protection of Television Signals Transmitted by Space Communication Satellites  
*Object:* Preparation of a draft international instrument — *Invitations:* Member States of the Berne Union, Member States of the Paris Union and Member States of the United Nations or of a Specialized Agency — *Observers:* Intergovernmental and non-governmental organizations concerned — *Note:* Meeting convened jointly with Unesco and in cooperation with the International Labour Office and the International Telecommunication Union
- May 3 to 7, 1971 (London) — Joint ad hoc Committee on the International Classification of Patents — Working Group V \*
- May 24 to 28, 1971 (Strasbourg) — Joint ad hoc Committee on the International Classification of Patents — Meeting of the Bureau \*
- June 14 to 16, 1971 (Geneva) — ICIREPAT — Technical Coordination Committee
- June 22 to 25, 1971 (Montreux) — WIPO Lecture Course: "Current Trends in the Field of Intellectual Property"  
 Participation open to all interested persons subject to payment of a registration fee
- July 5 to 9, 1971 (Munich) — Joint ad hoc Committee on the International Classification of Patents — Working Group III \*
- July 5 to 24, 1971 (Paris) — Diplomatic Conference for the Revision of the Berne Convention  
*Object:* Revision of the Stockholm Act — *Invitations:* Member States of the Berne Union — *Observers:* Other States, members of the United Nations or of a Specialized Agency; Intergovernmental and non-governmental organizations concerned
- September 6 to 10, 1971 (Place to be fixed) — Joint ad hoc Committee on the International Classification of Patents — Working Group IV \*
- September 13 to 17, 1971 (The Hague) — Joint ad hoc Committee on the International Classification of Patents — Working Group I \*
- September 20 and 21, 1971 (Geneva) — ICIREPAT — Technical Coordination Committee
- September 22 to 24, 1971 (Geneva) — ICIREPAT — Plenary Committee
- September 21 and 22, 1971 (Geneva) \*\* — WIPO Headquarters Building Subcommittee  
*Members:* Argentina, Cameroon, France, Germany (Fed. Rep.), Italy, Japan, Netherlands, Soviet Union, Switzerland, United States of America
- September 27 to October 1, 1971 (Berne) — Joint ad hoc Committee on the International Classification of Patents — Working Group II \*
- September 27 to October 2, 1971 (Geneva) — WIPO Coordination Committee, Executive Committees of the Paris and Berne Unions, Assembly and Committee of Directors of the National Property Offices of the Madrid Union, Council of the Lisbon Union
- October 4 to 8, 1971 (Geneva) — Committee of Experts on International Registration of Marks  
*Object:* Preparation of the Revision of the Madrid Agreement or of the Conclusion of a New Treaty — *Invitations:* Member States of the Paris Union and organizations concerned
- October 4 to 9, 1971 (Geneva) — Joint ad hoc Committee on the International Classification of Patents — Working Group V \*
- October 11 to 13, 1971 (Geneva) — ICIREPAT — Technical Committee I (Retrieval Systems, Design and Testing)
- October 13 to 15, 1971 (Geneva) — ICIREPAT — Technical Committee VI (Systems Implementation)
- October 14 and 15, 1971 (Geneva) — ICIREPAT — Advisory Board for Cooperative Systems
- October 18 to 20, 1971 (Geneva) — ICIREPAT — Technical Committee II (Technical Fields: Forward Planning)
- October 21 and 22, 1971 (Geneva) — ICIREPAT — Technical Committee III (Advanced Computer Techniques)
- October 25 to 27, 1971 (Geneva) — ICIREPAT — Technical Committee V (Patent Format and Printing)
- October 28 and 29, 1971 (Geneva) — ICIREPAT — Technical Committee IV (Microform)
- November 9 to 12, 1971 (Geneva) — Joint ad hoc Committee on the International Classification of Patents — Meeting of the Bureau \*
- November 15 to 18, 1971 (Geneva) — Joint ad hoc Committee on the International Classification of Patents — Plenary Committee \*
- November 18 to 20, 1971 (Geneva) — Intergovernmental Committee Established by the Rome Convention (Neighboring Rights)  
*Note:* Meeting convened jointly with the International Labour Office and Unesco
- November 22 to 27, 1971 (Geneva) — Executive Committee of the Berne Union
- December 6 to 11, 1971 (Geneva) \*\* — Patent Cooperation Treaty (PCT) — Financing Working Group and Interim Committees  
*Members:* (i) Financing Working Group: Canada, France, Germany (Fed. Rep.), Italy, Japan, Netherlands, Soviet Union, Sweden, Switzerland, United Kingdom, United States of America; (ii) Interim Committees: Signatory States of the PCT
- December 13 to 15, 1971 (Geneva) — ICIREPAT — Technical Coordination Committee

\* Meeting convened jointly with the Council of Europe.

\*\* Dates to be confirmed later.

## Meetings of Other International Organizations Concerned with Intellectual Property

December 15 to 17, 1970 (The Hague) — International Patent Institute — Administrative Council (104<sup>th</sup> Session)

April 17 to 24, 1971 (Vienna) — International Chamber of Commerce — Congress

May 18 to 22, 1971 (Stockholm) — International Federation of Patent Agents — General Assembly

July 5 to 24, 1971 (Paris) — Unesco — Diplomatic Conference for the Revision of the Universal Copyright Convention

July 26 to August 3, 1971 (Montreal) — International Writers Guild — 3<sup>rd</sup> Congress

International Conference for the Setting Up of a European System for the Grant of Patents (Luxembourg):

November 24 to 27, 1970 — Working Party I — “Implementing Regulations” Subcommittee

November 30 to December 1, 1970 — Working Party I

December 2 to 4, 1970 — Coordination Committee

December 8 to 11, 1970 — Working Party I — “Regulations on Fees” Subcommittee

January 12 to 15, 1971 — Working Party I

April 20 to 30, 1971 — Conference

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### VACANCY IN WIPO

Applications are invited for the following post:

*Competition No. 129*

*Translator*

(Languages Section)

Category and grade: P. 3

*Principal duties:*

- (a) Translation into French of legal, administrative and technical texts in English.
- (b) Revision of French working documents and other French texts in order to improve their linguistic level.
- (c) Participation in translation or editorial work during conferences.
- (d) As far as necessary, translation into French of correspondence and legal texts in Spanish or Russian or German (according to the language of which the incumbent has adequate knowledge).

The duties above mentioned are subject to supervision by the Head of Languages Section.

*Qualifications required:*

- (a) University degree in a relevant field. Wide general culture.
- (b) Excellent knowledge of French (mother tongue) and thorough knowledge of English. Good working knowledge of one of the following languages: Spanish, Russian or German.
- (c) Considerable experience in translation work. Elegance of style, clarity and accuracy in translating. Ability to correct quickly texts drafted in French.

*Nationality:*

Candidates must be nationals of one of the member States of the Paris or Berne Union. Qualifications being equal, preference will be given to candidates who are nationals of States of which no national is on the staff of WIPO.

*Age limit:*

Candidates must be less than 50 years of age at date of appointment.

*Date of entry on duty:*

As soon as possible.

*Applications:*

*Application forms* and full information regarding the *conditions of employment* may be obtained from the Head of the Administrative Division, WIPO, 32, chemin des Colombettes, 1211 Geneva, Switzerland. Please refer to the number of the Competition.

*Closing date: December 14, 1970.*

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