

Copyright

Review of the
WORLD INTELLECTUAL PROPERTY
ORGANIZATION (WIPO)

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ADMINISTRATIVE BODIES

WIPO Coordination Committee and Berne Union Executive Committee

Sixth Series of Meetings

(Geneva, September 23 to 29, 1975)

Note*

During the sixth series of meetings of the Administrative Bodies of the World Intellectual Property Organization (WIPO) and the Unions administered by WIPO, held in Geneva from September 23 to 29, 1975, the following three bodies held their ordinary sessions:

WIPO Coordination Committee, ninth session (6th ordinary),

Paris Union Executive Committee, eleventh session (11th ordinary),

Berne Union Executive Committee, eighth session (6th ordinary).

All of the 33 States members of the Coordination Committee and of either the Executive Committee of the Paris Union or the Executive Committee of the Berne Union were represented: *Ordinary Members*: Algeria, Australia, Brazil, Cameroon, Canada, Egypt, France, German Democratic Republic, Germany (Federal Republic of), Hungary, India, Israel, Japan, Kenya, Morocco, Netherlands, Romania, Senegal, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America, Yugoslavia (25); *Associate Members*: Argentina, Iran, Italy, Mexico, Nigeria, Philippines, Poland, Sri Lanka (8).

Twenty-three other States and seven intergovernmental organizations had delegated observers.

The list of participants appears below.

At the opening meeting of this sixth series of meetings of the Administrative Bodies, the Director General of WIPO made a brief introductory speech, the text of which is reproduced hereafter.

Each Committee elected its officers at the beginning of its session. A list of the officers is given below.

The deliberations and decisions concerning the report on past activities, financial or budgetary matters, ratifications and accessions in progress, cooperation between WIPO and Organizations of the United Nations system, the program and budget for 1976 and the draft agendas for the 1976 sessions took place at joint meetings of the Coordination Committee and the Executive Committees of the Paris and Berne Unions

(hereinafter referred to as "the Committees") under the chairmanship of Mr. François Savignon (France), the Chairman of the Coordination Committee.

The principal decisions taken by the Committees are reported below.

Past Activities

The Committees considered the report of the Director General on the activities of the International Bureau between October 1, 1974, and September 15, 1975, and noted it with approval. In the course of this consideration, a number of delegations expressed satisfaction with the activities undertaken by the International Bureau in the field of legal-technical assistance to developing countries. It was pointed out that the legal aspects of such assistance had not always been sufficiently emphasized and that, at a time when the problems in connection with facilitating the transfer of technology to developing countries were being considered by the United Nations General Assembly, WIPO's role in devising adequate means of ensuring that transfer was of very special importance. Several delegations mentioned that the competent bodies of their countries in both the industrial property and the copyright fields were always willing to receive trainees from developing countries or to provide the International Bureau with experts to help it carry out assistance projects for the benefit of national or regional institutions in developing countries. Another possibility that was mentioned was that developing countries might undertake exchanges of experience by receiving trainees from other developing countries. The Director General expressed his thanks to all the national Offices that had taken part in the WIPO training program, and to those whose continuing support contributed to the implementation by WIPO of the project financed by the United Nations Development Programme (UNDP) to assist the Government of Brazil in modernizing the Brazilian patent system. With reference to the activities under the WIPO Permanent Program for the Acquisition by Developing Countries of Technology Related to Industrial Property, the Director General expressed his appreciation of the support given to the Program by Austria with its experimental project concerning searches into the state of the art, the financing of the International Patent Documentation Center (INPADOC) and the project for the classification of search files according to the International Patent Classification (IPC).

* This Note has been prepared by the International Bureau on the basis of the documents of the sessions of the Committees.

Financial and Budgetary Matters

The Committees noted with approval the accounts of the International Bureau and the report of the auditors on those accounts, as well as other information concerning finances in 1974.

Cooperation between WIPO and Other Organizations within the United Nations System

The Committees noted with satisfaction the Director General's report on the various forms of cooperation between WIPO and the United Nations and other Organizations within the United Nations system. Emphasis was placed in this connection on the importance of WIPO's contribution to the implementation of the decisions of the United Nations General Assembly concerning the establishment of the New International Economic Order.

Program and Budget for 1976

WIPO Technical Assistance. The Coordination Committee established the WIPO legal-technical assistance program and budget for 1976. This program includes the grant of fellowships for officials from developing countries, the convening of experts from developing countries for the preparation of a model law on copyright for such countries, the holding of a regional seminar on neighboring rights for Asian developing countries, to be organized in cooperation with ILO and Unesco, the holding of a regional conference for Arab States on industrial property, the grant of technical assistance to English-speaking countries in Africa for the adoption of an agreement for cooperation in the field of industrial property, the continuation of the technical assistance given to OAMPI and the grant of assistance to national or regional authorities in developing countries in formulating or revising their industrial property or copyright legislation.

In addition, within the framework of the WIPO Permanent Legal-Technical Program for the Acquisition by Developing Countries of Technology Related to Industrial Property, the following activities will be undertaken: the drafting of a new Model Law for Developing Countries on Inventions and Know-How; the preparation of draft guidelines and model provisions for license agreements appropriate to the needs of developing countries; the study of practical steps with a view to the use of the International Patent Classification to facilitate access to information for the acquisition of technology; the holding of a Seminar, probably in Sri Lanka, on the Interest of the Patent System for Industrial Development.

Berne Union. The Executive Committee of the Berne Union approved the program and budget of the Berne Union for 1976. In addition to the usual tasks relating to publications concerning copyright and neighboring rights (the monthly periodicals, collections of legislative texts, Records of diplomatic conferences, etc.), and in addition to the activities mentioned in connection with technical assistance, this program provides for the continuation, in collaboration with Unesco,

of the study of the copyright and neighboring rights problems arising out of the use of electronic computers and other similar devices, cable television, the legal protection of folklore, and for the preparation and publication of a comparative law study on current copyright legislation in all the countries of the world.

The procedure for the continuation of the work on the reprographic reproduction of works protected by copyright and the double taxation of copyright royalties remain subject to the decisions of the respective competent bodies.

The Executive Committee of the Berne Union reserved the right to take up some of these matters again at its extraordinary session in December 1975, as well as the question of the practical effects of the Paris revision (1971) of the Berne Convention, and the proposals made on the subject by a number of delegations.

Paris Union. The main features of the program and budget of the Paris Union for 1976 approved by the Executive Committee of the said Union are contained in the November 1975 issue of *Industrial Property*.

Appointment of a Deputy Director General

The Coordination Committee approved the Director General's decision to appoint Mr. Felix Sviridov, a national of the Soviet Union, to the post of Deputy Director General reserved for nationals of Socialist countries.

Staff Matters

The Coordination Committee noted the information on the composition of the International Bureau and the progress made by the Director General in improving the geographical distribution of the staff in both the Professional and higher and the General Service categories. It approved the long-term plan for filling vacant posts proposed by the Director General, and adopted a certain number of amendments to the Staff Regulations and Rules. It authorized the Director General to notify the Secretary-General of the United Nations of the acceptance by WIPO of the Statute of the International Civil Service Commission and to take all the necessary steps with a view to the membership of WIPO in the United Nations Joint Staff Pension Fund. Finally, the Coordination Committee expressed favorable advice on the Director General's intention to appoint Mr. Roger Harben to the post of Director of the External Relations Division (grade D. 1).

Cooperation Agreement between WIPO and the Organization of African Unity (OAU)

The draft cooperation agreement between WIPO and the Organization of African Unity (OAU) submitted by the Director General was approved by the Coordination Committee. The draft agreement will now be submitted to the Council of Ministers of the OAU for approval at its next session in February 1976 and will enter into force on the date of its signature by the authorized representatives of the two Organizations.

1976 Sessions

The Committees approved, each as far as it was concerned, the proposals submitted to them by the Director General with regard to the preparation of the draft agendas for the 1976 sessions of the General Assembly and the Assemblies of the Paris and Berne Unions, and the preparation of the draft programs and budgets of the WIPO Conference and the Paris and Berne Unions for the period from 1977 to 1979.

Speech delivered by Dr Arpad Bogsch, Director General of WIPO

Mr. Chairman, Honorable Delegates,

I should like to inaugurate a new custom in your yearly "Administrative Meetings" by making a brief introductory speech.

The various bodies of WIPO and some of the Unions meeting here today have several important items on their agendas and over a hundred pages of documents before them for consideration. What I shall attempt to do in this introductory speech is to single out a few points in order to draw your particular attention to them.

Your decision last year that WIPO should become a specialized agency of the United Nations became a reality last December when the General Assembly of the United Nations made a parallel decision.

This decision of the United Nations General Assembly was made in the same year as that in which the said Assembly adopted the now well-known resolution on a new economic order for the world. I am pleased about this coincidence since I firmly believe that the economic situation of the world has to be changed in order to improve the economic and social situation of the developing countries. In its own specialized field, WIPO can contribute to such a change, particularly by facilitating the creation, development and transfer of patented technology and the access by developing countries to works protected by copyright.

That is why I consider that some of the most significant events of the past 12 months which you will review now and some of the most important items of the program proposed for next year have been, still are and should continue to be the activities primarily concerning developing countries: the preparatory work for the revision of the Paris Convention for the Protection of Industrial Property, the establishment of new model laws, the technical assistance given to certain developing States or groups of developing States, their participation in the Patent Cooperation Treaty, the Trademark Registration Treaty, the International Patent Classification and ICIREPAT, their full use of traineeships, seminars and the Permanent Program for the Acquisition of Technology in which there is increasing emphasis on building an adequate infrastructure, for example, documentation centers.

In the field of industrial property, I particularly hope that the next year will see the accomplishment of three tasks: first, such intensive work on the preparation of the revision of the Paris Convention that the diplomatic revision conference could be held in 1977; second, the holding of a symposium, possibly in Sri Lanka, where the contribution of industrial property to the industrialization of developing countries would be submitted to a thorough examination and be the subject of an exchange of views; third, the finding of new means, together with UNCTAD and UNIDO, to assist developing countries in their difficult task of choosing the technologies which suit them best and obtaining them on the terms which are most favorable.

The fact that I am speaking more about industrial property than copyright does not mean that copyright is of secondary concern to us. It is just as important as industrial property. The difference in the volume of our activities is due to the fact that our member States initiate fewer proposals in the field of copyright than in the field of industrial property. Almost everything we do in copyright is done on the initiative of the Secretariat. I invite the member States of the Berne Union to be more active, to make more proposals and to take more initiatives. I should be only too glad to satisfy them. In any case, we plan to have a most important meeting next year in Tunis, organized together with Unesco and at the kind

invitation of the Government of Tunisia, at which all the developing countries will consider the draft of a new model law in the field of copyright. And this year, in Mexico, at the kind invitation of the Mexican Government, we shall have, together with ILO and Unesco, a very important meeting of the Latin American and the Caribbean countries on matters neighboring on copyright.

As to the other parts of our program, I hope that the next year will allow us to conclude the preparatory work directed towards international action on scientific discoveries, deposit of microorganisms and computer software. The time is either ripe for action or it is not. If it is, let the action — signing of treaties or adopting of resolutions — take place at the latest in 1977. If it is not, let us leave these projects in deep freeze for a few years. I do not think that it is healthy for any preparatory work to go on year after year. After all, much more arduous preparatory tasks, such as the preparation of the PCT and the TRT, did not take more than three or four years.

This brings me to these two Treaties. Recent events in some of our member States have raised hopes that the PCT might, at long last, come into effect, hopefully in 1977. But, as far as the ratification of the TRT is concerned, very little has happened so far. The PCT is now more than five years old and the TRT more than two. Here are two instruments designed to simplify the now rather complicated and expensive protection of inventions and marks on the international level. But they are mere paper until they are ratified. I urge you to use your influence to have them ratified, in the interest of the economy of your countries, whether developed or developing.

In contemplation of the administrative needs of the PCT and the TRT, the erection of an additional headquarters building was decided. It will be completed in 1977. But part of it, as well as the present building, will not be needed because the staff and the activities have not grown as was foreseen when we were working on the preparation of the PCT and the TRT and when the construction was decided. This situation will cause an extraordinary financial strain on the member States as from 1977.

Unfortunately, the income of the Madrid Union — which always closely reflects the general economic situation — is much below expectation and will remain so if the recession continues.

A third financial difficulty may be caused by the fact that there is a risk that the advances of the host Government, more needed than ever and so far granted free of charge, will be burdened with interest. Perhaps you may be able to persuade it to postpone the introduction of its claim to the payment of interest.

All these factors, of course, are leading to measures of economy, particularly with respect to the staff. In order to serve efficiently all the purposes of this Organization, more staff and more money would be needed. The measures which ought to be taken on behalf of developing countries should really be substantially increased rather than merely kept stationary as proposed in the draft program for 1976 and the estimates for the years thereafter.

But, of course, the programs and budgets for 1976 and thereafter are matters to be decided by you, honorable Delegates. I would welcome it if you decided that we should do more for the benefit of the developing countries.

Finally, Mr. Chairman, let me say a few words about the staff. I look forward to your decision on my proposal for the third Deputy Director General. Once he is with us, the political aim set by you two years ago, to have nationals of the three groups assist me on an equal footing, will be achieved.

The existing two Deputy Directors General and the rest of the staff have proved and continue to prove every day that they are competent, hard-working and dedicated. Many of them work more or much more than the administrative rules would require. They do it, I believe, because they find their work interesting and rewarding and, last but not least, because they are convinced that intellectual property has an important role to play in what, at this juncture of mankind's history, developing countries desire to achieve: a standard of living comparable to that of the developed countries.

I wish, therefore, Mr. Chairman, to conclude by commending the staff for their understanding of what is our most important objective and for employing their talents to the full in order to approach that objective.

List of Participants *

I. States members of the Administrative Bodies referred to above **

Algeria: G. Sellali (Mrs.); S. Bouzidi. Argentina: C. A. Passalacqua. Australia: K. B. Petersson; C. L. Hermes. Austria: T. Lorenz. Belgium: J. D. P. Degavre; R. Philippart de Foy. Brazil: A. Gurgel de Alencar. Cameroon: B. Yaya Garga. Canada: D. E. Bond; A. M. Laidlaw; J. Johnston (Mrs.); A. A. Keyes; M. Moher. Czechoslovakia: M. Bělohávek; J. Prošek. Denmark: K. Skjødt; R. Carlsen (Mrs.). Egypt: A. M. Khalil; A. El Shahed; S. A. Abou-Ali. Finland: E. V. Tuuli; R. Meinander; E. Wuori. France: J. Fernand-Laurent; L. Nicodème (Mrs.); A. Kerever; F. Savignon; J. Buffin; R. Leclerc; S. Balous (Mrs.). German Democratic Republic: J. Hemmerling; D. Schack; C. Micheel (Mrs.); M. Förster (Mrs.). Germany (Federal Republic of): A. Krieger; E. Steup (Mrs.); R. von Schleussner (Mrs.); U. C. Hallmann; T. Roetger; G. Wirth. Hungary: E. Tasnádi; I. Tímár; A. Benárd; M. Bognár (Mrs.). India: S. Alikhan; H. N. Sukhdev. Iran: Y. Madani. Ireland: M. J. Quinn. Israel: M. Gabay; N. Cohen. Italy: G. Trotta; S. Samperi; G. Catalini. Japan: H. Saito; N. Okamura; Y. Hashimoto; T. Yoshida. Kenya: D. J. Coward. Liechtenstein: A. F. de Gerliczy-Burian. Luxembourg: J.-P. Hoffmann. Mexico: G. E. Larrea Richerand; V. C. García Moreno. Morocco: A. Zerrad. Netherlands: J. B. van Benthem; J. Bos. Nigeria: S. S. A. Ojomo; A. Kuye. Norway: A. G. Gerhardsen; S. H. Røer; J. Aars-Rynning. Philippines: C. V. Espejo. Poland: J. Szomański; D. Januszkiewicz (Mrs.); M. Paszkowski. Portugal: R. Serrão; J. Van-Zeller Garin; J. Mota Maia; L. F. Rebello. Romania: L. Marinete; V. Tudor; C. Ivascu. Senegal: A. Cissé; J. P. Crespín. Soviet Union: I. Nayashkov; F. A. Sviridov; V. Zubarev; V. Roslov. Spain: A. Villalpando Martínez; J. Delicado Montero-Ríos; I. Fonseca-Ruiz (Mrs.); C. González Palacios. Sri Lanka: K. Breckenridge. Sweden: G. Borggård; C. Ugglå; B. Lundberg;

* A list may be obtained from the International Bureau containing the titles and functions of the participants and the bodies in which each State or organization was represented.

** As well as of the Bodies of the Madrid and Nice Unions which met during the same period.

A. H. Olsson. Switzerland: W. Stamm; P. Braendli; J.-L. Comte; F. Balley; A. Kamer. United Kingdom: I. J. G. Davis; V. Tarnofsky; J. J. D. Ashdown. United States of America: C. M. Dann; H. J. Winter; H. D. Hoinkes; M. K. Kirk; G. J. Klein. Yugoslavia: D. Čemalović.

Total: 43 States

II. Other States

Bulgaria: I. Ivanov; N. Datzkov; T. Sourgov. Byelorussian SSR: N. J. Androsovich. Chile: P. Oyarce. Congo: F. Kouza; M.-A. Mackita. Cuba: J. M. Rodríguez Padilla; J. Otero Solanes. Holy See: O. Rouillet (Mrs.). Indonesia: W. Stegarda. Ivory Coast: B. Nioupin; M.-L. Boa (Miss). Lebanon: A. Fleifel (Miss). Pakistan: I. Bukhari. Togo: A. Wilson. Turkey: N. Yosmaoglu. Zaire: C. M. Kasasa; Lukabu-K'Habouji; L. Elebe.

Total: 13 States

III. Intergovernmental Organizations

United Nations (UN): V. Lissitsky. United Nations Conference on Trade and Development (UNCTAD): P. Roffe; P. O'Brien. United Nations Educational, Scientific and Cultural Organization (UNESCO): M.-C. Dock (Miss). Organization of African Unity (OAU): D. Sehoulia. Interim Committee of the European Patent Organisation: J. A. U. M. van Grevenstein. Benelux Trademark Office: L. van Bauwel. African and Malagasy Industrial Property Office (OAMPI): D. Ekani.

IV. International Bureau of WIPO

A. Bogsch (*Director General*); K. Pfanner (*Deputy Director General*); K. L. Liguier-Laubhouet (Mrs.) (*Deputy Director General*); C. Masouyé (*Director, Office of the Director General*); R. Harben (*Director, External Relations Division*).

V. Officers

WIPO Coordination Committee

Chairman: F. Savignon (France); *Vice-Chairmen*: D. J. Coward (Kenya); J. Szomański (Poland); *Secretary*: R. Harben (WIPO).

Berne Union Executive Committee

Chairman: S. Alikhan (India); *Vice-Chairmen*: I. Fonseca-Ruiz (Mrs.) (Spain); C. A. Passalacqua (Argentina); *Secretary*: E. M. Haddrick (WIPO).

WORLD INTELLECTUAL PROPERTY ORGANIZATION

IRAQ

Accession to the WIPO Convention

The Director General of the World Intellectual Property Organization (WIPO) has notified the Governments of the countries invited to the Stockholm Conference that the Government of the Republic of Iraq deposited, on October 21, 1975, its instrument of accession to the Convention Establishing the World Intellectual Property Organization (WIPO)

Pursuant to Article 15(2), the Convention Establishing the World Intellectual Property Organization will enter into force, with respect to the Republic of Iraq, three months after the date of deposit of the instrument of accession, that is, on January 21, 1976.

WIPO Notification No. 84, of October 24, 1975.

NATIONAL LEGISLATION

ITALY

I

Law

concerning the ratification and implementation of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, signed at Rome on October 26, 1961

(No. 866, of November 22, 1973) *

Article 1. — The President of the Republic shall be authorized to ratify the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, signed at Rome on October 26, 1961.

Article 2. — The Convention mentioned in the preceding Article shall be fully enforceable as from the date of its entry into force in accordance with Article 25 of the said Convention.

Article 3. — The Government of the Republic shall be empowered to issue, within six months following the entry into force of the present Act, by decree of the President of the Republic on a proposal by the President of the Council of Ministers in agreement with the Minister for Foreign Affairs,

* The original Italian text of the Law was published in the *Gazzetta Ufficiale* of the Italian Republic of January 3, 1974. — WIPO translation.

provisions having force of ordinary law for the implementation of the Convention referred to in Article 1.

Article 4. — The decree referred to in the preceding Article shall be consistent with the following guiding principles:

- (i) it shall provide for the obligation of the producer of a phonographic record or any other like contrivance for reproducing sounds or voices to share equitably with the performers the amount of any remuneration due to him in respect of secondary use of the record;
- (ii) it shall extend to television the rights of a broadcasting organization in a radio broadcast.

This Law, bearing the State seal, shall be included in the official collection of Laws and Decrees of the Italian Republic. All persons concerned shall be required to observe it and ensure its observance as a law of the State.

II

Decree

of the President of the Republic concerning the implementation of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, signed at Rome on October 26, 1961

(No. 490, of May 14, 1974) *

The President of the Republic,

Having regard to Article 87, fifth paragraph, of the Constitution;

Having regard to Law No. 866 of November 22, 1973, concerning the ratification and implementation of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations, signed at Rome on October 26, 1961, and to the powers delegated to the Government to issue provisions having force of ordinary law for the implementation of the said Convention;

Having regard to Law No. 633 of April 22, 1941, for the protection of copyright and other rights connected with the exercise thereof;

Having heard the Council of Ministers;

* The original Italian text of the Decree was published in the *Gazzetta Ufficiale* of the Italian Republic of October 19, 1974. — WIPO translation.

Acting on a proposal by the President of the Council of Ministers in agreement with the Minister for Foreign Affairs, Hereby decrees:

Article 1. — The following sentence shall be added to the first paragraph of Article 73 of Law No. 633 of April 22, 1941:

“The producer shall share equitably with the performers concerned the amount of the aforementioned remuneration.”

Article 2. — The second paragraph of Article 73 of Law No. 633 of April 22, 1941, shall be replaced by the following paragraph:

“The amount of the remuneration and the percentage shares and likewise the modalities pertaining thereto shall be established in accordance with the provisions of the regulations.”

Article 3. — The following paragraph shall be added to Article 79 of Law No. 633 of April 22, 1941:

“The rights provided for in the preceding paragraph shall be applicable to television.”

Article 4. — Article 23 of the Regulations for the application of Law No. 633 of April 22, 1941, approved by Royal Decree No. 1369 of May 18, 1942, shall be replaced by the following wording:

“The amount of the remuneration due, within the meaning of Article 73 of the Law, by persons utilizing, with gainful intent, a record or other like contrivance reproducing sounds or voices shall be determined by decree of the

President of the Council of Ministers, acting on a proposal by the Standing Consultative Committee on Copyright, sitting in general assembly.

The percentages and modalities for sharing the above-mentioned remuneration with the performers shall be determined according to the same procedure.

The foregoing provisions shall be applicable only unless the parties have agreed to the contrary.”

This Decree, bearing the State seal, shall be included in the official collection of Laws and Decrees of the Italian Republic. All persons concerned shall be required to observe it and ensure its observance.

KENYA

The Copyright (Amendment) Act, 1975

An Act of Parliament to amend the Copyright Act

(No. 5 of 1975) *

Short title

1. This Act may be cited as the Copyright (Amendment) Act, 1975.

Amendment of section 2

2. Subsection (1) of section 2 of the Copyright Act¹ (hereinafter referred to as the principal Act) is hereby amended—

(a) by the deletion from paragraph (f) of the definition of “artistic work” of the commas and words “and also, subject to the provisions of section 3(3) of this Act,”;

(b) by the insertion in the definition of “author”, immediately after the word “undertaken” where it last appears, of a comma and the words following—

, or in the case of programme-carrying signals, means the person who decides what programme the signals emitted to a satellite or passing through a satellite will carry;

(c) by the insertion in the definition of “broadcast”, immediately after the word “wires”, of a comma and the words following—

, but does not include the emission of programme-carrying signals to a satellite;

(d) by the deletion from the definition of “literary work” of the comma and words “, law report”.

Amendment of section 3

3. Subsection (1) of section 3 of the principal Act is hereby amended by the insertion after the item “(f) broadcasts.” of the following new item—

(g) programme-carrying signals.

Amendment of section 4

4. Subsection (2) of section 4 of the principal Act is hereby amended by the insertion after item 4 of the table therein of the following new item—

5. Programme-carrying signals.	Twenty years after the end of the year in which the signals were emitted to a satellite.
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Amendment of section 5

5. Subsection (1) of section 5 of the principal Act is hereby amended—

(i) in paragraph (a) by the deletion of the semi-colon and word “; and”;

(ii) in paragraph (b) by the insertion after the word “Kenya”, of the word “and”;

(iii) by the insertion, after paragraph (b), of the following new paragraph—

(c) being a programme-carrying signal, is emitted to a satellite from a place in Kenya.

Amendment of section 6

6. Subsection (3) of section 6 of the principal Act is hereby amended by the deletion of the words “or broadcast” and the substitution therefor of a comma and the words “, broadcast or programme-carrying signal”.

Amendment of section 7

7. Section 7 of the principal Act is hereby amended—

(a) in the proviso to subsection (1)—

(i) by the deletion of paragraph (i) and the substitution therefor of the following new paragraph—

(i) the doing of any of the aforesaid acts by way of fair dealing for the purposes of scientific

* This Act came into force on May 9, 1975.

¹ See *Copyright*, 1966, pp. 127 *et seq.*

research, private use, criticism or review, or the reporting of current events;

- (ii) by the deletion of paragraph (ii);
 - (iii) in paragraph (v)—
 - (i) by the deletion of the words “ which includes ” and the substitution therefor of the word “ of ”;
 - (ii) by the deletion of the word “ or university ” and the substitution therefor of the words “ or the University of Nairobi established under section 3(1) of the University of Nairobi Act or any other university ”;
 - (iv) in paragraph (vi), by the deletion of the words “ educational purposes; ” and the substitution therefor of the words “ purposes of systematic instructional activities; ”;
 - (v) by the deletion of paragraph (vii) and the substitution therefor of the following new paragraph—
 - (vii) the reproduction of a broadcast referred to in the preceding paragraph and the use of such reproduction in any school registered under the Education Act or the University of Nairobi established under section 3(1) of the University of Nairobi Act or any other university for the systematic instructional activities of any such school or university;
 - (vi) by the deletion of paragraph (x) and the substitution therefor of the following new paragraph—
 - (x) the reproduction of a work by or under the direction or control of the Government, or by such public libraries, non-commercial documentation centres and scientific institutions as may be prescribed, where such reproduction is in the public interest and no revenue is derived therefrom;
 - (vii) in paragraph (xii), by the deletion of the words “ of a work ” and the substitution therefor of the words “ of a literary, musical or artistic work or cinematograph film ”;
- (b) by the insertion, after subsection (2), of the following new subsection—
- (3) Copyright in a literary, musical or artistic work or in a cinematograph film shall also include, during the lifetime of the author, the right to claim authorship in the work, except when the work is used incidentally or accidentally, and to object to any distortion, mutilation or other modification of the work where such action would be or is prejudicial to the honour or reputation of the author.

Insertion of new section 10A

8. The principal Act is hereby amended by the insertion, after section 10, of the following new section—

Nature of copyright in programme-carrying signals

10A. (1) Copyright in programme-carrying signals shall be the exclusive right to prevent the distribution in Kenya or from Kenya of any such signals by any distributor for whom these signals were not intended by their author:

Provided that the provisions of paragraphs (i), (vi), (vii) and (xiii) of the proviso to section 7(1) of this Act shall apply *mutatis mutandis* to the copyright in programme-carrying signals.

(2) In this section—

“ distribution ” means any operation by which programme-carrying signals are transmitted to the general public or any section thereof;

“ distributor ” means the person who decides that the distribution should take place;

“ programme-carrying signals ” means electronically generated carriers transmitting live or recorded material consisting of images, sounds or both, in their original form or any form recognizably derived from the original, and emitted to or passing through a satellite situated in extraterrestrial space.

Amendment of section 12

9. Section 12 of the principal Act is hereby amended by the deletion of subsection (5).

Insertion of new section 13A

10. The principal Act is hereby amended by the insertion, after section 13, of the following new section—

Offences and penalties for infringement

13A. (1) Any person who, at a time when copyright subsist in a work—

- (a) makes for sale or hire, or
- (b) sells or lets for hire, or by way of trade offers or exposes for sale or hire, or
- (c) by way of trade exhibits in public, or
- (d) imports otherwise than for his private and domestic use,

any article which he knows to be an infringing copy of the work, shall be guilty of an offence.

(2) Any person who, at a time when copyright subsists in a work, distributes—

- (a) for purposes of trade, or
- (b) for other purposes to an extent which affects prejudicially the owner of the copyright,

articles which he knows to be infringing copies of the work, shall be guilty of an offence.

(3) Any person who, at a time when copyright subsists in a work, makes or has in his possession any plate knowing that it is to be used for making infringing copies of the work, shall be guilty of an offence.

(4) Any person who causes 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, shall be guilty of an offence.

(5) A person guilty of an offence under subsection (1) or (2) of this section shall be liable—

- (a) if it is his first conviction of an offence under this section, to a fine not exceeding thirty shillings in respect of each article to which the offence relates;
- (b) if it is his second or a subsequent conviction of any offence under this section, to a fine not exceeding forty shillings in respect of each article to which the offence relates or to imprisonment for a term not exceeding four months:

Provided that a fine imposed by virtue of this subsection shall not exceed two thousand shillings in respect of articles comprised in the same transaction.

(6) A person guilty of an offence under subsection (3) or (4) of this section shall be liable—

- (a) if it is his first conviction of an offence under this section, to a fine not exceeding two thousand shillings;
- (b) if it is his second or a subsequent conviction of any offence under this section, to a fine not exceeding four thousand shillings or to imprisonment for a term not exceeding four months.

(7) The court before which a person is charged with an offence under this section shall, whether he is convicted of the offence or not, order that any article in his possession which appears to the court to be an infringing copy, or to be an article used or intended to be used for making infringing copies, shall be destroyed or delivered up to the owner of the copyright in question or otherwise dealt with as the court may think fit.

(8) No prosecution for an offence under this section shall be instituted—

(a) without the consent of the Attorney-General;

(b) after the expiration of the period of three years immediately following the date of the offence alleged;

(c) except before the High Court or the Resident Magistrate's Court.

Amendment of section 15

II. Section 15 of the principal Act is hereby amended—

- (i) by the insertion, after the figures " 15 ", of the figure in brackets " (1) ";
- (ii) in paragraph (c), by the deletion of the comma and the substitution therefor of the word " or, ";
- (iii) by the insertion, after paragraph (c), of the following new paragraph—
 - (d) to programme-carrying signals emitted to a satellite from,
- (iv) by the insertion, at the end thereof, of the following new subsections—

(2) The Attorney-General may make regulations restricting the right of an author to control the translation or the reproduction of his work up to the extent permitted by any Universal Copyright Convention for the time being in force in Kenya.

(3) The Attorney-General may make regulations authorizing, and prescribing terms and conditions governing, any specified use of folklore, except by a national public entity for non-commercial purposes, or the importation of any work made abroad which embodies folklore.

(4) For the purposes of subsection (3) of this section—

"folklore" means any literary, musical or artistic work presumed to have been created within Kenya by an unidentified author which has been passed from one generation to another and constitutes a basic element of the traditional cultural heritage of Kenya.



CORRESPONDENCE



Letter from Greece

Victor Th. MÉLAS *

- October 11 to 15, 1976 (Geneva) — International Patent Classification (IPC) — Steering Committee
- October 13 to 21, 1976 (Geneva) — Nice Union — Temporary Working Group
- October 18 to 22, 1976 (Geneva) — ICIREPAT — Technical Committee for Standardization (TCST)
- October 18 to 22, 1976 (Geneva) — International Patent Classification (IPC) — Committee of Experts
- October 25 to 29, 1976 (Geneva) — ICIREPAT — Technical Committee for Search Systems (TCSS)
- October 25 to 30, 1976 (Beirut) — Regional Conference for Arab States on Industrial Property
(Meeting organized jointly with UNIDO and IDCAS)
- November 1 to 6, 1976 (Geneva) — Patent Cooperation Treaty (PCT) — Interim Committees
- November 8 to 13, 1976 (Colombo) — Seminar on the Interest of the Patent System for Industrial Development
- November 8 to 19, 1976 (Munich) — International Patent Classification (IPC) — Working Group IV
- November 15 to 17, 1976 (Colombo) — Regional Conference for Asian States on Industrial Property
- November 22 to 26 [or 30], 1976 (Geneva) — Paris Union — Group of Governmental Experts for the Revision of the Paris Convention
- November 29 to December 3, 1976 (Geneva) — WIPO Permanent Legal-Technical Program for the Acquisition by Developing Countries of Technology Related to Industrial Property — Working Group on the Model Law for Developing Countries on Inventions and Know-How
- November 29 to December 10, 1976 (Rijswijk) — International Patent Classification (IPC) — Working Group I
- December 6 to 14, 1976 (Geneva) — Paris Union — International Protection of Appellations of Origin and Other Indications of Source — Committee of Experts
- March 14 to 18, 1977 (Geneva) — WIPO Permanent Legal-Technical Program for the Acquisition by Developing Countries of Technology Related to Industrial Property — Permanent Committee (4th session)
- September 26 to October 4, 1977 (Geneva) — WIPO Coordination Committee and Executive Committees of the Paris and Berne Unions

UPOV Meetings

- Council: October 13 to 15, 1976
- Consultative Committee: March 10 and 11, 1976; October 12 and 15, 1976
- Technical Steering Committee: May 6 and 7, 1976; November 18 and 19, 1976
- Committee of Experts on International Cooperation in Examination: May 3 to 5, 1976; November 15 to 17, 1976
- Committee of Experts on the Interpretation and Revision of the Convention: December 2 to 5, 1975; February 17 to 20, 1976; September 14 to 17, 1976
- Note:* All these meetings will take place in Geneva at the headquarters of UPOV

Meetings of Other International Organizations concerned with Intellectual Property

- December 10 to 16, 1975 (Geneva) — United Nations Educational, Scientific and Cultural Organization (UNESCO) — Intergovernmental Copyright Committee established by the Universal Copyright Convention (as revised at Paris in 1971) — First extraordinary session
- December 17 to 19, 1975 (Rijswijk) — International Patent Institute — Administrative Board
- January 16, 1976 (Paris) — International Literary and Artistic Association — Executive Committee and General Assembly
- February 2 to 6, 1976 (Strasbourg) — Council of Europe — Legal Committee on Broadcasting and Television
- May 9 to 13, 1976 (Munich) — International League Against Unfair Competition — Congress
- May 24 to 29, 1976 (Athens) — International Literary and Artistic Association — Congress
- May 25 to June 1, 1976 (Tokyo) — International Publishers Association — Congress
- September 26 to October 2, 1976 (Montreux) — International Association for the Protection of Industrial Property — Executive Committee
- September 27 to October 1, 1976 (Paris) — International Confederation of Societies of Authors and Composers — Congress
- October 11 to 16, 1976 (Varna) — International Writers Guild — Congress