

Published monthly  
Annual subscription:  
Sw.fr. 100.—  
Each monthly issue:  
Sw.fr. 10.—

# Copyright

15<sup>th</sup> year - No. 4  
**April 1979**

Monthly Review of the  
World Intellectual Property Organization (WIPO)

---

## Contents

	Page
BERNE UNION	
— The Berne Union and International Copyright and Neighboring Rights in 1978	94
CONVENTIONS ADMINISTERED BY WIPO	
— <b>International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations</b> Subcommittee of the Intergovernmental Committee on the Implementation of the Rome Convention (Geneva, January 29 to February 2, 1979)	101
NATIONAL LEGISLATION	
— <b>Hungary.</b> I. Decree-Law of the Presidium of the Hungarian People's Republic amending and completing the Copyright Act No. III of 1969 (No. 27 of 1978)	110
II. Decree of the Minister of Culture completing Decree No. 9, of December 29, 1969, concerning the implementation of the Copyright Act, No. III of 1969 (No. 4, of December 7, 1978)	111
GENERAL STUDIES	
— Employment and Copyright ( <b>R. Cuveillier</b> )	112
BOOK REVIEWS	
— Copyright Law in the Soviet Union ( <b>M. A. Newcity</b> )	125
— Intellectual Property Law in Australia — Copyright ( <b>J. Lahore</b> )	126
CALENDAR OF MEETINGS	127

---

© WIPO 1979

Any reproduction of official notes or reports, articles and translations of laws or agreements, published in this review, is authorized only with the prior consent of WIPO.

---

## Berne Union

### The Berne Union and International Copyright and Neighboring Rights in 1978 \*

#### I. Introduction

The main aim of the copyright and neighboring rights activities is to strengthen cooperation among States in the mutual protection of literary and artistic works, musical and other performances, phonograms and broadcasts. Such activities, apart from those concerned with development cooperation related to copyright and neighboring rights, are concerned with the study of particular problems arising in the fields of copyright and neighboring rights and in the servicing of international treaties and the improvement of national legislations.

#### II. Berne Union

##### A. Member States

Costa Rica deposited its instrument of accession to the Berne Convention for the Protection of Literary and Artistic Works (Paris Act, 1971) on March 3, 1978, and became a member on June 10, 1978, of the International (Berne) Union founded by the said Convention. By the end of 1978, the number of States members of the Berne Union was 71 (see Table of Member States in the January 1979 issue of this review).

##### B. Governing Bodies

The Berne Union Executive Committee held an ordinary session in September/October 1978, during the ninth series of meetings of the Governing Bodies of WIPO and the Unions administered by WIPO. The main items discussed and the principal decisions taken by the Governing Bodies, including the Berne Union Executive Committee, during their sessions in September/October 1978, are reported on in the March 1979 issue of this review. The Berne Union Executive Committee recommended also that the Director General convene the Committee in early 1979 to consider the draft of WIPO's triennial (1980 to 1982) program and budget in the fields of copyright and neighboring rights and in related fields, provided that the Director General of Unesco con-

vened, at the same time and place, the Intergovernmental Committee established by the Universal Copyright Convention with a view to the holding of joint meetings by the two said Committees. The Berne Union Executive Committee also acted upon the question of considering the domestic law of certain countries contemplating the possibility of acceding to the Berne Convention (see below). In addition, the Berne Union Executive Committee took the necessary decisions concerning the convening, with Unesco, of an international conference of States for the purpose of adopting a multilateral convention on the avoidance of double taxation of copyright royalties (see below).

##### C. Paris Act (1971) of the Berne Convention

*Acceptance.* During 1978, Portugal deposited its instrument of accession in respect of the Paris Act (1971) of the Berne Convention in its entirety. Sri Lanka deposited its instrument of accession with a declaration to the effect that its accession did not apply to Articles 1 to 21 and the Appendix. The Paris Act (1971) of the Berne Convention entered into force in 1978 for Australia (March 1, 1978), Costa Rica (March 10, 1978), German Democratic Republic (February 18, 1978) and Sri Lanka (September 23, 1978, with the exception of Articles 1 to 21 and the Appendix) and entered into force in 1979 for Portugal (January 12, 1979).

*Applicability of Articles 1 to 21 and the Appendix.* At the end of 1978, 35 States were bound by Articles 1 to 21 and the Appendix of the Paris Act (1971) of the Berne Convention.

*Applicability of Articles 22 to 38.* At the end of 1978, 42 States were bound by Articles 22 to 38 (administrative provisions and final clauses) of the Paris Act (1971) of the Berne Convention. In addition, 15 States were bound by Articles 22 to 38 (administrative provisions and final clauses) of the Stockholm Act (1967) of the Berne Convention.

*Notifications under Article I of the Appendix.* The Niger deposited a notification on March 14, 1978, availing itself of the faculties provided for in Articles II and III of the Appendix of the Paris Act (1971) of the Berne Convention. Four States have so far deposited such a notification: Mexico, Niger, Surinam, Tunisia. These notifications will be effective

\* This article covers the main activities of the Berne Union and in the fields of international copyright and neighboring rights. The activities of the World Intellectual Property Organization as such are covered in the March 1979 issues of *Copyright* and *Industrial Property*. The April 1979 issue of the latter covers the main activities of the Paris Union and industrial property in 1978.

until the expiration of ten years from the entry into force of Articles 1 to 21 and the Appendix of the Paris Act (1971) of the Berne Convention, that is, until October 10, 1984.

*Declarations under Article VI of the Appendix.* In 1978, no State made a declaration under Article VI of the Appendix of the Paris Act (1971) of the Berne Convention. So far, Germany (Federal Republic of), Norway and the United Kingdom have declared under Article VI(1)(ii) that they admit the application of the Appendix to works of which they are the country of origin by countries which have deposited a notification under Article I of the Appendix (see the preceding paragraph).

*Text of the Paris Act (1971).* A version in Russian of the Paris Act (1971) of the Berne Convention was published in brochure form in May 1978.

*Contribution Class.* When depositing its instrument of accession to the Paris Act (1971) (see above) the Government of Costa Rica chose Class VII for the purpose of establishing its contributions towards the budget of the Berne Union. When depositing its instrument of ratification (except for Articles 1 to 21 and the Appendix) of the Paris Act (1971) of the Berne Convention (see above), the Government of Sri Lanka chose Class VII (instead of Class VI) for the purpose of establishing its contributions towards the budget of the Berne Union; this change of class will take effect in respect of the year 1979 and the years thereafter.

#### **D. Compatibility of the new United States Copyright Law with the Berne Convention**

In implementation of the 1978 program which provided that a working group would meet in order to consider the domestic law of certain countries contemplating the possibility of acceding to the Berne Convention, the Director General convened a group of consultants in June 1978 to consider the new Copyright Law of the United States of America. The Group of Consultants consisted of experts, acting in their personal capacity, from Brazil, Canada, France, Germany (Federal Republic of), Hungary, India, Italy, Senegal, the United Kingdom and the United States of America. The Group of Consultants had before them a study on the question of the compatibility of the United States Copyright Law with the Berne Convention. The Group of Consultants was of the view that the principal, if not the only, obstacle to the accession of the United States of America to the Berne Convention seemed to be certain provisions on formalities contained in the United States Copyright Law. The Group of Consultants considered whether this obstacle could not be removed if, in a Protocol to the Berne Convention, it were to be agreed that any State which is not and never has been a member of the Berne Union but which, at the time it became a

member of the Berne Union, is party to the Universal Copyright Convention, could apply, for a limited period, Article III of the Universal Copyright Convention to works originating in other countries of the Berne Union notwithstanding the prohibition of formalities contained in Article 5(2) of the Berne Convention.

Having been informed by the Government of the United States of America that it was interested in seeing the matter pursued, the Director General brought that interest and the report of the Group of Consultants to the attention of the Berne Union Executive Committee at its session in September/October 1978. The Berne Union Executive Committee decided that consideration of the question of a possible Protocol to the Berne Convention intended to enable the United States of America to accede to that Convention should take place at its next session (February 1979) and that that session should decide on the desirability of pursuing the matter and, if its decision were positive, on the procedure to be followed.

### **III. International Copyright**

#### **A. Development Cooperation Activities Related to Copyright and Neighboring Rights**

The activities in 1978 of the WIPO Permanent Program for Development Cooperation Related to Copyright and Neighboring Rights are summarized in the March 1979 issue of this review (pp. 60 *et seq.*). They concern the following: the Permanent Committee (membership and second session); status of ratifications of or accessions to the conventions on copyright and neighboring rights; support of national authors and performers; access to and dissemination of protected works, including implementation of the specific provisions for the benefit of developing countries contained in the Paris text of the Berne Convention and the Universal Copyright Convention; the Model Law on Copyright for developing countries; a glossary of terms of the law on copyright; the protection of folklore; the training program in the fields of copyright and neighboring rights; the teaching of copyright law; regional meetings; assistance to certain developing countries and regional institutions of developing countries and cooperation among developing countries.

#### **B. Audiovisual Cassettes and Discs**

Three subcommittees, established, respectively, by the Berne Union Executive Committee, the Intergovernmental Committee of the Universal Copyright Convention and the Intergovernmental Committee of the Rome Convention, at the sessions of the said Committees held in November/December 1977, met in Paris in September 1978 to examine the legal problems arising from the use of videocassettes and audiovisual discs and to consider solutions which

might be offered to national legislators on the basis of legislative solutions adopted or planned in different countries, as well as on the basis of current practice in respect of contractual relationships between the different interests concerned.

Although the three subcommittees met at the same place and during the same period, the Subcommittees established by the Berne Union Executive Committee and the Intergovernmental Committee of the Universal Copyright Convention held joint sittings, whereas the Subcommittee established by the Intergovernmental Committee of the Rome Convention met separately; nevertheless, the participants, preparatory documents, the discussions which took place and the decisions which were taken were similar.

Representatives of the following States participated in the meetings of one or more of the Subcommittees: Belgium, Brazil, Canada, Colombia, Czechoslovakia, Denmark, Ecuador, France, Hungary, Israel, Italy, Japan, Luxembourg, Mexico, Morocco, Netherlands, Niger, Norway, Senegal, Sweden, Switzerland, Tunisia, United Kingdom, United States of America. In addition, two intergovernmental organizations and 13 international non-governmental organizations were represented at the said meetings by observers.

The Subcommittees had before them a report of a Working Group which had met on the subject in 1977 and the comments from States and organizations on that report, as well as an analysis, prepared by a consultant, of that report and those comments together with a summary of the questions for discussions also prepared by that consultant.

After a general discussion of the legal problems arising from the use of videocassettes and audiovisual discs, the Subcommittees confirmed the conclusions reflected in the report of the 1977 Working Group. The Subcommittees recalled, as did the Working Group, that this new dissemination technique did not call for a revision of, or that it would be inopportune under the present circumstances to revise, the existing international conventions on copyright and neighboring rights, that it did not necessitate the preparation of a new international instrument and that, as to contracts and collective agreements in the field of neighboring rights, these solutions were also likely to be inadequate. The Subcommittees decided that the most practical solution would be to provide protection in national legislation. To assist national legislators, the Subcommittees examined and adopted an inventory of problems arising in the fields of copyright and neighboring rights which sets forth a series of questions and considerations relating to the terminology to be employed, the public and private uses of videograms and the utilization of videograms for

teaching or other educational purposes. The Subcommittees expressed the wish that their reports on the meetings be submitted to the 1979 sessions of the Berne Union Executive Committee, the Intergovernmental Committee of the Universal Copyright Convention and the Intergovernmental Committee of the Rome Convention, that they be circulated widely among States and organizations and that, after consideration by the said Committees, a full set of documents should be constituted and published.

### C. Transmission of Television Programs by Cable

The Subcommittee of the Berne Union Executive Committee and the Subcommittee of the Intergovernmental Copyright Committee of the Universal Copyright Convention on the copyright problems raised by the transmission of television programmes by cable, sitting together, met at Geneva in July 1978. Eight States members of the Berne Union Executive Committee (Austria, Belgium, Canada, India, Ivory Coast, Mexico, Spain, Switzerland) and eight States members of the Intergovernmental Committee of the Universal Copyright Convention (France, Germany (Federal Republic of), India, Japan, Mexico, Netherlands, United Kingdom, United States of America) were represented as members at the meetings. One State member of the Intergovernmental Committee of the Rome Convention (Denmark) was represented in an observer capacity. Three intergovernmental organizations and 14 international non-governmental organizations were represented by observers.

The Subcommittees explored the solutions in respect of the copyright problems raised by the transmission of television programs by cable which might be offered to national legislators on the basis of legislative solutions adopted or planned in different countries, as well as current practice in respect of contractual relationships between the different interests concerned.

The Subcommittees generally endorsed the final conclusions of the Working Group on the Problems in the Field of Copyright and Neighboring Rights Raised by the Distribution of Television Programmes by Cable which had met in Paris in June 1977, namely, that a study of the legal problems raised by cable distribution had revealed the necessity and usefulness of identifying the problems which should, if appropriate, be taken into account by legislators at the national level.

The Subcommittees confirmed the conclusion reached by the 1977 Working Group that the solution of the problems at issue did not call for revision of either the Berne Convention for the Protection of Literary and Artistic Works or the Universal Copyright Convention, since the provisions written into those instruments covered the various situations that could arise in the fields concerned. The Subcommit-

tees concluded also that, in view of the latitude left to national legislations by those provisions and the fact that every country had its own special legal concepts, it did not seem possible for a uniform solution to be worked out and proposed to legislators as a model. Under those circumstances, the Subcommittees considered that their role consisted in drawing up a list of the problems raised by cable distribution and that each State would have to settle those problems by legal provisions or judicial decisions. In doing so, the Subcommittees studied in greater depth the considerations presented by the 1977 Working Group and drew up a list of typical concrete situations with their legal implications. These situations consisted of original transmissions (those made by a cable system and those made by the broadcaster himself via cable) and retransmissions of captured transmissions (those made simultaneously with the original transmission and those not, and, in the case of the former, three factors being taken into account: whether the program-unit or the whole program had been transmitted with or without changes, the fact that the programs were national or foreign, and the fact that small or bigger cable systems were resorted to). The conclusions of the Subcommittees deal with these situations and their implications for authors and broadcasting organizations on the collective administration of rights system and non-voluntary licensing.

As far as the field of neighboring rights is concerned, see below.

#### **D. Electronic Computers and Other Technological Equipment**

Pursuant to the decisions taken by the Berne Union Executive Committee and the Intergovernmental Committee of the Universal Copyright Convention at their sessions in November/December 1977, the International Bureau of WIPO and the Secretariat of Unesco circulated in April 1978 to the States members of the Berne Union or party to the Universal Copyright Convention studies dealing with the copyright problems arising from the use of electronic computers, especially those arising from the storage and retrieval of works protected by copyright, and invited the said States to present their comments on those studies by September 15, 1978.

#### **E. Double Taxation of Copyright Royalties**

The Third Committee of Governmental Experts on the Double Taxation of Copyright Royalties Remitted from One Country to Another, organized by WIPO and Unesco, met in Paris in June 1978. Forty-eight States sent experts to the meeting. Observers from one State, three intergovernmental organizations and 11 international non-governmental organizations also attended the meeting.

The Committee had before it a preliminary draft multilateral agreement for the elimination of double taxation of copyright royalties and a preliminary draft protocol annexed to that agreement, a preliminary draft model bilateral convention on this subject, commentaries on these preliminary drafts and the observations formulated by governments and international non-governmental organizations. The preliminary drafts and the commentaries had been prepared by the International Bureau of WIPO and the Secretariat of Unesco with the assistance of a consultant.

An exchange of views took place in the Committee on whether the most suitable means of avoiding cases of double taxation of copyright royalties should be within the framework of bilateral tax treaties of general scope rather than by a multilateral convention specifically concerned with copyright royalties. Further, after a discussion of the question whether the Committee should prepare a draft multilateral convention or a recommendation on the subject of the double taxation of copyright royalties, the Committee decided by a roll-call vote of 27 in favor, eight against and four abstentions that it should prepare a draft multilateral convention.

Thereupon the Committee prepared, on the basis of the preliminary drafts presented to it by the two Secretariats and amendments thereto submitted by a number of delegations, a draft Multilateral Convention for the Avoidance of Double Taxation of Copyright Royalties and a draft Protocol Annexed to that Convention. The Committee invited the two Secretariats to prepare a draft commentary explaining the draft Convention, a draft model bilateral convention and a draft commentary explaining that draft model bilateral convention. Finally, the Committee recommended that an international conference of States be convened in 1979 by the Directors General of WIPO and Unesco for the purpose of adopting a multilateral convention on the avoidance of double taxation of copyright royalties and that, as part of the preparations for that conference, the texts of the draft convention, agreement and commentaries be circulated to governments and to interested intergovernmental and international non-governmental organizations for their comments.

The Berne Union Executive Committee at its session in September/October 1978 and the Executive Board of Unesco at its session in November 1978 decided to convene the said international conference of States. The said conference is scheduled to be held in Madrid (Spain) in November/December 1979.

#### **F. Works Destined for Persons with Visual or Auditory Handicaps**

Pursuant to the decisions taken by the Berne Union Executive Committee and the Intergovernmental Committee of the Universal Copyright Con-

vention at their sessions in November/December 1977, the International Bureau of WIPO and the Secretariat of Unesco invited the World Council for the Welfare of the Blind (WCWB) to prepare a preliminary study of the problems arising in making protected works more readily accessible to persons suffering from visual or auditory handicaps.

#### IV. Rome Convention

##### A. Member States

Norway deposited on April 10, 1978, its instrument of accession to the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention). The Rome Convention entered into force in respect of Norway on July 10, 1978. By the end of 1978, the number of States party to the Rome Convention was 21 (See Table of Member States in the January 1979 issue of this review).

##### B. Administration of Rights under the Rome Convention

In April 1978, the International Bureau of WIPO, the International Labour Office and the Secretariat of Unesco invited the States members of the Berne Union or party to the Universal Copyright Convention or to the Rome Convention to provide by July 15, 1978, if they so wished, additional information to supplement their replies to an earlier inquiry on the subject of the administration of rights under the Rome Convention. The replies and the additional information were to be submitted to the members of the Intergovernmental Committee established under the Rome Convention, sitting as a subcommittee, at its session in early 1979.<sup>1</sup>

##### C. Audiovisual Cassettes and Discs

See above.

##### D. Transmission of Television Programs by Cable

The Subcommittee of the Intergovernmental Committee of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention) on the problems raised by the transmission of television programmes by cable in regard to the protection of the interests of the beneficiaries of the Rome Convention met in Geneva in July 1978. Five State members of the Intergovernmental Committee (Austria, Denmark, Mexico, Sweden, United Kingdom) were represented as members at the meeting. Two States party to the Rome Convention (Germany (Federal Republic of), Luxembourg) and eight States members of the Subcommittees set up by the two Copyright Committees (see above) (Canada, France, India, Ivory Coast, Japan, Netherlands, Switzerland, United States of America) were represented in an

observer capacity. One intergovernmental organization and 10 international non-governmental organizations were represented by observers.

The Subcommittee considered a number of suggestions for solutions at the international level to the problems raised by the distribution of television programs by cable, including possible revision of the Rome Convention and the conclusion by Contracting States of special agreements under Article 22 of that Convention, but concluded that neither of these solutions seemed appropriate at the present time. The Subcommittee deemed it advisable instead to draw up guidelines to be recommended to States for the settlement of the problems arising from the distribution of television programs by cable. To that end, it took over the list of possible solutions which had been drawn up by the Subcommittees of the two Copyright Committees (see above) and examined them in relation to Articles 7, 10, 12 and 13 of the Rome Convention. The Subcommittee formulated certain conclusions in respect of these situations.

#### V. Phonograms Convention

##### Member States

*Acceptance.* The Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms (Phonograms Convention) entered into force for Egypt on April 23, 1978, for Israel on May 1, 1978, for Japan on October 14, 1978, and for Norway on August 1, 1978. El Salvador and Paraguay deposited instruments of accession to the Phonograms Convention on November 9, 1978, and November 13, 1978, respectively. The Phonograms Convention entered into force for El Salvador on February 9, 1979, and for Paraguay on February 13, 1979. On that latter date, the number of States party to the Phonograms Convention was 31 (see Table of Member States in the January 1979 issue of this review).

*Declarations under Article 7(4).* During 1978, no State made a declaration under Article 7(4) of the Phonograms Convention. Three States (Finland, Italy, Sweden) have so far made a declaration under Article 7(4) of the Phonograms Convention to the effect that they will apply the criterion according to which they afford protection to producers of phonograms solely on the basis of the place of first fixation instead of the criterion of the nationality of the producer.

#### VI. Satellites Convention

##### A. Acceptance

During 1978, no State deposited an instrument of ratification of or accession to the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite (Satellites Convention). The Satellites Convention is not yet in force.

<sup>1</sup> See the report published hereafter in this issue.

## B. Records of the Satellites Conference

The Records of the International Conference of States on the Distribution of Programme-Carrying Signals Transmitted by Satellite (Brussels, 1974) were published jointly with Unesco in English and French in July 1978 and in Spanish in October 1978.

## C. Working Group on the Implementation of the Satellites Convention

The Working Group on the Implementation of the Satellites Convention, convened by the Directors General of WIPO and Unesco, met in April 1978. The members of the Working Group consisted of the representatives of two intergovernmental organizations and 10 international non-governmental organizations.

The discussions of the Working Group were based on a document, prepared by the Secretariats of WIPO and Unesco with the assistance of a consultant, containing an analysis of the Satellites Convention in terms of measures for its implementation by national laws and proposing certain definitions and model provisions for inclusion in national legislation intended to give effect to the Satellites Convention.

The Working Group examined a number of preliminary questions, including whether programme-carrying signals transmitted via space satellites for the ultimate purpose of reception by the public constituted "broadcasting" within the meaning of Article 3 of the Rome Convention, and whether the model provisions should be restricted to transmissions by means of point-to-point satellites.

Having dealt with these preliminary questions, the Working Group concluded that a Contracting State which, under the Satellites Convention, was required to take adequate measures to prevent prohibited distributions had a choice between two legal systems. The first was to grant to the broadcasting organizations meeting the requirements of the definition of "originating organization" in Article 1 of the Satellites Convention the right to authorize or prohibit the distribution of their signals. The other legal system consisted in prohibiting, subject to sanctions, a distributor from distributing programme-carrying signals which the originating organization had not intended for him. As a result, the Working Group prepared the texts of two sets of model provisions, together with a commentary, reflecting each legal system.

## VII. Vienna Agreement (Type Faces)

### Acceptance

During 1978, no State deposited an instrument of ratification of or accession to the Vienna Agreement for the Protection of Type Faces and their International Deposit. The Vienna Agreement (Type Faces) is not yet in force.

## VIII. Publications

### A. "Copyright" and "Le Droit d'auteur"

The reviews *Copyright* and *Le Droit d'auteur* continued to appear every month. The review *La Propiedad Intelectual*, which includes information on copyright and neighboring rights matters, continued to appear every quarter in Spanish.

The reviews *Copyright* and *Le Droit d'auteur* are now available in the form of microfiches for the years 1965 to 1976 (English) and 1888 to 1976 (French). Any individual issue may be obtained on request.

### B. Collections of Laws and Treaties on Copyright and Neighboring Rights

The collection relating to copyright is being kept up to date in cooperation with Unesco and the collection relating to neighboring rights in cooperation with the ILO and Unesco.

### C. Copyright Law Survey

The International Bureau finished the work on the preparation of a survey of national legislations in the field of copyright. The survey was published in the reviews *Copyright* and *Le Droit d'auteur*.

### D. Guide to the Berne Convention

The French original and the English version of the *Guide to the Berne Convention* were published at the beginning of 1978. At the end of 1978, the Spanish translation of the Guide was being printed, whereas Arabic and Portuguese translations of the Guide were being prepared. Additionally, arrangements have been made for the publication of the Guide in German, Japanese and Russian.

## IX. Other Matters

### Relations with States

See the report on WIPO and its activities in 1978 in the March 1979 issue of this review.

### Relations with Intergovernmental Organizations

*Relations with the United Nations Educational, Scientific and Cultural Organization (UNESCO)*. See above.

Consultations took place between the International Bureau and the Secretariat of Unesco in June 1978 to coordinate the planning and carrying out of the program activities of the two Organizations in the field of copyright and neighboring rights.

*Relations with the United Nations Educational, Scientific and Cultural Organization (UNESCO) and the International Labour Organisation (ILO)*. See above.

**Relations with International and National  
Non-Governmental Organizations**

WIPO was represented at the following meetings of international and national non-governmental organizations having an interest in copyright and related matters at which questions of direct interest to WIPO were discussed: the Executive Committee in Paris in January 1978 and Centennial Congress of the International Literary and Artistic Association (ALAI) in Paris in May 1978, at the latter of which the Director General also delivered an address; the Copyright Society of the United States of America at Bucks Hill, Pennsylvania (USA) in April 1978; the Executive Committee of the International Federation of Musicians (FIM) in London in April 1978; the Congress of the International Copyright Society

(INTERGU) in Athens in May 1978, at which a member of the staff of the International Bureau presented a paper; the Legal and Legislation Committee of the International Confederation of Societies of Authors and Composers (CISAC) in Copenhagen (Denmark) in June 1978 and the Congress of CISAC in Toronto and Montreal (Canada) in September 1978.

In addition, the Centenary Celebration of the Invention of Sound Recordings, which was organized by the International Federation of Producers of Phonograms and Videograms (IFPI), held its closing ceremony in Geneva in March 1978 under the auspices of WIPO. A display was set up and a press conference took place in the WIPO Headquarters Building.

## Conventions Administered by WIPO

### Subcommittee of the Intergovernmental Committee of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations on the Implementation of the Rome Convention

(Geneva, January 29 to February 2, 1979)

#### Report

prepared by the Secretariat and adopted by the Subcommittee

#### I. Introduction and Participation

1. The Subcommittee of the Intergovernmental Committee of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention) on the implementation of the said Convention, hereinafter referred to as "the Subcommittee," met at Geneva from January 29 to February 2, 1979.

2. The meeting of the Subcommittee was convened pursuant to the decisions taken by the Intergovernmental Committee of the Rome Convention at its sixth ordinary session held at Geneva in December 1977, in order to study the replies on the inquiry on the implementation of the said Convention and to recommend further action to the seventh ordinary session of the Intergovernmental Committee.

3. Eight States members of the Intergovernmental Committee (Austria, Brazil, Czechoslovakia, Denmark, Mexico, Niger, Sweden, United Kingdom) were represented at the meeting. Three States party to the Rome Convention (Germany (Federal Republic of), Luxembourg, Norway) were represented in an observer capacity.

4. One intergovernmental organization and 10 international non-governmental organizations were represented by observers.

5. The list of participants is annexed to this report.

#### II. Opening of the Meeting

6. The meeting was opened by Mrs. K.-L. Liguier-Laubhouet, Deputy Director General of WIPO, who extended, on behalf of ILO, Unesco and WIPO constituting the Secretariat of the Intergovernmental Committee, a warm welcome to the delegates and observers.

#### III. Election of Chairman

7. On a proposal by the delegation of Austria, supported by the delegation of the United Kingdom, Mr. W. Weincke (Denmark) was elected Chairman.

#### IV. Adoption of the Agenda

8. The Subcommittee adopted its agenda as contained in the document ILO/UNESCO/WIPO/ICR/SC.1/IMP/1.

#### V. Introduction of Documentation

9. The Secretariat introduced the document ILO/UNESCO/WIPO/ICR/SC.1/IMP/2 containing its report on the joint inquiry on the implementation of the Rome Convention.

#### VI. General Debate

10. The Chairman indicated that the objective of the inquiry was to facilitate and promote adherence to the Convention by making information generally available on the experience in the various countries in the administration of rights under the Rome Convention and the solutions adopted to harmonize the interests of the beneficiaries of these rights which could contribute to the improved functioning of the Convention.

11. Several delegations and observers thanked the Secretariat for the detailed documentation provided, and also thanked the International Federation of Producers of Phonograms and Videograms (IFPI) for the elaborate factual information furnished in its reply, that was reflected in the document.

12. The delegation of Austria emphasized that, considering the impact the Rome Convention has so far had on national legislations where a large number of countries have legislated on neighboring rights since its adoption and as already 21 countries had adhered to it, this Convention could be stated to be a success.

13. The delegation of Sweden stated that the Rome Convention was a flexible instrument in that Article 16 provides for several options in respect of the rights granted to the beneficiaries of the Convention and that within the system of the Convention it is possible to combine for instance collective systems and systems based on individual rights.

14. The delegation of the Federal Republic of Germany, regretting that it was unable to participate throughout the detailed discussions at the meeting, made a statement at the outset covering the following main points. Referring to the collection and distribution of royalties provided for in Article 12 of the Rome Convention, the delegation was of the opinion that the entitlement to royalties is governed by the law of the country in which the phonogram is used for broadcasting or communication to the public; therefore those kinds of beneficiaries who are entitled under the law of the country of collection have the right to remuneration in that country, be they nationals or be they foreigners to whom national treatment is accorded. It stated that a collecting society in the country of collection can exercise the rights of the beneficiaries only if the individual beneficiaries have transferred their rights to the society or have authorized the society to collect the remuneration for them; if the beneficiaries are foreigners, the rights can be transferred or the authorization given either directly to the society or indirectly via a collection society in their country of origin. In case of an indirect transfer or authorization, it stated that the society in the country of origin of the foreign beneficiary, mentioned in the document as the country of distribution, has to inform the collecting society in the country of collection of the names of the individual right holders and has to give proof — at least if so asked for by the collecting society in the country of collection — of the transfer or authorization by the individual right holder with respect to his rights in the country of collection. Only if these conditions are fulfilled could the collecting society in the country of collection, in its opinion, be able to collect the remuneration and be entitled to transfer it to the collecting society in the country of distribution; it is also only under these conditions that the distribution could be left to the collecting society in the country of distribution and be governed by the rules of that society.

15. It also referred to the wish of the international organizations of the performing artists and of the producers of phonograms, who — in order to be able to conclude so-called needle-time arrangements — ask for the grant of an exclusive right to prohibit the use of the phonogram, over and above the right to remuneration provided for in the Convention. It further stated that, during the legislative procedure leading to the copyright law of 1965 in its country, this was amply discussed and thoroughly examined,

but was not followed mainly because an exclusive right of performers can be used to the detriment of authors; the income of authors, whose works are recorded on phonograms, depends to a considerable extent on the broadcasting of the records, and their legitimate interest to have their recorded works broadcast would be violated if the performers by virtue of an exclusive right prohibit — totally or partially — the use of phonograms in broadcasting. It stated that under these circumstances the legislative bodies in its country considered that a right of the performer to remuneration only, which safeguards his financial interest and does not interfere with the financial interest of the author, constitutes an adequate balance of the interests of authors and performers.

16. The Subcommittee thereafter took up the discussion of the legal and practical requirements for the distribution of remuneration (arising from the application of Article 12) in international situations and reached the conclusions described below.

17. With reference to the statement by the delegation of the Federal Republic of Germany indicated in the latter half of paragraph 14 above, relating to the collection and distribution of royalties provided for in Article 12 of the Rome Convention, the observer from the International Federation of Musicians (FIM) mentioned that there are difficulties in identifying performers in some cases.

18. While discussing the effect of Article 12 rights on copyright royalties, most delegations and observers felt that no proof was forthcoming to support the argument that royalty accruing to authors would be eroded as a result of the remuneration paid to persons other than authors; they felt that the so-called “cake theory” cannot be established on the basis of the information available.

19. The observer from the International Confederation of Societies of Authors and Composers (CISAC) expressed the view that the drafting of the conclusions of the Secretariat’s documentation concerning the effect of Article 12 rights on copyright royalties was very prudent. In his opinion, before the “cake theory” is rejected, all the figures and related factual elements should be presented and carefully examined. The observer from the European Broadcasting Union (EBU) shared this view and drew the attention of the Subcommittee to the need to take into account the ceiling of income in order to cover the relevant expenses of the broadcasting organization concerned.

20. The Chairman as a delegate of Denmark, and the delegations of Austria and Sweden, expressed the opinion that in their countries copyright royalties had not decreased as a result of the remuneration paid to performers and producers of phonograms for the secondary use of their performances and phonograms, respectively. In their view the “cake theory”

was not a reality in their countries and they believed was not in other countries as well. The delegation of Czechoslovakia also supported this view.

21. The observer from the International Federation of Producers of Phonograms and Videograms (IFPI), referring to Article 12 rights, in so far as these relate to the collection and distribution system particularly where difficulty is encountered when right owners are different, or where payment of monies due has to cross country frontiers, and to the principle on which this should take place, stated that, if the following three conditions were fulfilled, difficulties could be largely minimized. Firstly, there should be, in every country of the Rome Convention, collecting societies, preferably only one, representing both producers of phonograms and performers; this was actually so in most countries; besides, since Article 12 provided for a single remuneration, a single society was desirable; secondly, that the collecting society should have a valid mandate or assignment from the right owners in the country where the society is located; and thirdly, that these societies should enter into bilateral arrangements with each other for the transfer of remuneration. He mentioned that a number of such bilateral agreements had already been concluded and felt that more would follow.

22. The observer from the International Federation of Musicians (FIM), speaking also on behalf of the International Federation of Actors (FIA), felt that the principal object should be to publicize the Convention and to encourage its increased ratification. He referred briefly to the recent FIM/FIA Symposium held from January 10 to 12, with the assistance of the three intergovernmental organizations ILO, Unesco and WIPO, and to the declaration<sup>1</sup> that emerged therefrom. He stressed that performers attached considerable importance to Article 7 rights and felt that the national laws should ensure that remedies such as are available to performers are a real possibility, capable of being exercised and implemented. As for Article 12 rights, he felt these should be implemented in a manner that was equitable and practicable.

23. The observer from the European Broadcasting Union (EBU) was gratified that their views were duly reflected in the documentation. Concerning the question of whether a single or joint collecting society was preferable, he felt that, while from an administrative point of view it would be better and more practical to deal with one society, there could be no hard and fast rule. Referring to the agreement between IFPI, FIM and FIA for sharing of remuneration, he said that this was a matter of practical concern to the EBU in a country where the law provided for only one beneficiary; in that event payment should be confined to

only the beneficiary protected under the law, and it was a matter of internal arrangement for such beneficiary to share the amount due to it alone with the other beneficiary not so protected by the law.

24. The observer from the International Federation of Musicians (FIM) said that in some countries the law making the producers the sole beneficiary remained unaltered because sharing arrangements existed. But for these arrangements, the performers, for example in the United Kingdom, might well have sought, and succeeded in obtaining, legislation making the performers a beneficiary also.

25. The delegation of Sweden, referring to the statement of the observer from IFPI about a joint collecting society being preferable, said that while this may be desirable it may not be the solution for all countries. The observer from the International Federation of Actors (FIA) also pointed out that in certain national circumstances single societies may well be more suitable.

26. The delegation of Mexico pointed out that the currently existing systems for managing the royalties of authors and those of performers and phonogram producers were separate. In view of the complexity resulting from such a situation and considering the fact that similarities existed between these various types of remuneration, the question arose whether it would not be advisable in the long term to examine the possibility of a joint management of all such royalties.

27. The delegation of Czechoslovakia stated that in its country there was a single collecting society for performers only. It also drew the Subcommittee's attention to the suggestion made by its delegation at the sixth ordinary session of the Intergovernmental Committee (December 1977) concerning the establishment of an international confederation of national organizations for the protection of performers' rights, which would work in cooperation with existing organizations such as the International Federation of Musicians and the International Federation of Actors. It further referred to a meeting planned between certain collecting societies on neighboring rights proposed to be held in Vienna in the second half of this year.

28. Some delegations, however, felt that it would be premature for the Subcommittee to discuss the suggestion in greater detail and that national societies should first exchange views on this matter.

29. Referring to the question of distribution and utilization of revenue allocated to each group of beneficiaries, the delegation of Austria suggested that the joint executive organ (instead of the separate sub-units representing performers and producers respectively) of the society responsible for collecting the

<sup>1</sup> See *Copyright*, 1979, p. 42.

revenue should be empowered to decide on the rules of distribution. On the other hand, the delegation of Austria, referring to the arbitration clause inserted into the guidelines concerning bilateral agreements, mentioned that such a clause does not for the present appear in any such agreement in force.

30. In the context of promotion of adherence to the Convention, the delegations of Denmark, Luxembourg and the United Kingdom, referring to the suggestion at the sixth ordinary session of the Intergovernmental Committee (December 1977) that Mr. Masouyé should prepare a Guide to the Rome Convention, as he had done for the Berne Convention, felt that such a Guide would be extremely useful, and should be established.

31. In the same context of making the Convention better known particularly to developing countries and to secure increased adherence by States to the Rome Convention, the delegation of the Niger, referring to regional seminars held for the purpose in Latin America at Mexico in 1975, and in Asia at Bangkok in 1977, suggested that a similar seminar be arranged in Africa. On behalf of the Secretariat it was stated that, while this suggestion would certainly be kept in view, the final decision would depend on budget availability and approval by their respective governing bodies.

32. After the general debate, the Subcommittee examined item by item the conclusions and recommendations contained in Section VII of document ILO/UNESCO/WIPO/ICR/SC.1/IMP/2, and thereafter decided to set up a small drafting committee to finalize, in the light of these discussions, the recommendations of the Subcommittee which are annexed to this Report. The drafting committee composed of the delegations of Austria, Czechoslovakia, Mexico, Sweden and the United Kingdom, worked under the chairmanship of Dr. Dittrich, Head of the delegation of Austria, with the participation, as observers, of the three international non-governmental organizations (FIA, FIM, IFPI) having helped the Secretariat in establishing the preparatory documentation, and in consultation with the European Broadcasting Union. The Chairman of the Subcommittee, Mr. Weincke, also participated in the work of the drafting committee on an *ex-officio* basis.

#### **VII. Adoption of the Recommendations Concerning the Protection of Performers, Producers of Phonograms and Broadcasting Organizations**

33. The recommendations as established by the drafting committee were presented to the Subcommittee and adopted with certain modifications. The final text of the Subcommittee's recommendations, as adopted by it, is reproduced at the end of this Report.

34. Referring to the last line of paragraph 20 of the said recommendations, the delegation of Austria wished to reserve its position in this connection. It stated that in its country a preliminary draft amendment to the Copyright Law provides (contrary to the recommendations of the Subcommittee on videograms which met in September 1978) for a levy on the blank material support only (and not on the recording equipment and material support).

35. The delegation of Brazil wished to reserve its position with regard to paragraph 37 of the said recommendations.

#### **VIII. Adoption of the Report and Closing of the Meeting**

36. The Subcommittee adopted the draft report prepared by the Secretariat.

37. In conclusion, the Subcommittee suggested that this report, together with the recommendations annexed thereto, should be placed before the Intergovernmental Committee at its next (seventh) ordinary session. Meanwhile the Subcommittee noted that this report and the recommendations would be duly published in the official periodicals of the respective intergovernmental organizations that form part of the Secretariat. The Subcommittee also recommended that the Secretariat ask the Contracting States and organizations concerned if they had any rectifications or additions to suggest in respect of the information contained in document ILO/UNESCO/WIPO/ICR/SC.1/IMP/2, and that, if necessary, an addendum to that document could be furnished at the said session.

38. After the usual thanks, the Chairman declared the meeting closed.

## Recommendations

### concerning the Protection of Performers, Producers of Phonograms and Broadcasting Organizations <sup>2</sup>

#### Introduction

1. The Secretariat of the Intergovernmental Committee of the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention) undertook an inquiry during 1976 and 1977 on the implementation and practical application of the Convention. The results of this inquiry were summarized in the Report of the Secretariat on the Joint Inquiry on the Implementation of the Rome Convention (document ILO/UNESCO/WIPO/ICR/SC.1/IMP/2).

2. A Subcommittee, established by the sixth ordinary session (December 1977) of the Intergovernmental Committee of the Convention, examined the Report of the Secretariat during a meeting in January 1979. Based on the information provided in the Report and on its own discussions, the Subcommittee drew a number of conclusions and adopted a number of recommendations that are presented below in order to promote adherence to the Convention and to provide guidance to States on the implementation and practical application of the Convention.

3. In its discussions the Subcommittee also recalled that regional seminars on the protection of performers, producers of phonograms and broadcasting organizations were an effective means of promoting the Convention. Two such seminars have been held in the past — one for the Latin American and Caribbean region in 1975 and one for the Asian/Pacific region in 1977. The Subcommittee recommended that seminars be also held in other regions of the world.

4. The Rome Convention grants protection to three categories of beneficiaries, viz. performers, producers of phonograms and broadcasting organizations. The Convention was based from the outset on social objectives. The origins of the Convention in the 1920s and 1930s were based on a need recognized, not only by performers but also by certain governments, to protect performers' rights in the light of the increased use of recording devices. The decision to protect all three beneficiaries in a single convention was taken many years later. The extent of the protection provided for in the Convention and the balance of interests among the three beneficiaries reflected in the Convention were determined in the light of the technology existing and foreseen in 1961. The Subcommittee recognized that technological development during the past two decades in the areas of concern to the beneficiaries has occurred at an unprecedented pace and has introduced new techniques (especially satellites, cable television, videograms) none of which could be foreseen at the time of the drafting of the Convention. The attention of national legislators is drawn (in later sections of this document) to the effects of these new developments on the protection of the rights of the three beneficiaries.

#### The Main Provisions of the Convention

5. *Performers* shall have the possibility of preventing (a) in principle, the broadcasting and the communication to the public of their performance, (b) the fixation of their unfixed performance, (c) in principle, the reproduction of a fixation of their performance (Art. 7).

6. *Producers of phonograms* shall have the right to authorize or prohibit the direct or indirect reproduction of their phonograms (Art. 10).

7. *Broadcasting organizations* shall have the right to authorize or prohibit (a) the rebroadcasting of their broadcasts, (b) the fixation of their broadcasts, (c), in principle, the reproduction of fixations of their broadcasts, and (d) in certain cases, the communication to the public of their TV broadcasts (Art. 13).

8. If a phonogram published for commercial purposes or a reproduction of it is used directly for broadcasting or for any communication to the public, a remuneration shall be paid by the user to the performers or the phonogram producers or to both (Art. 12).

9. The minimum term of protection under the Convention shall be 20 years (Art. 14).

10. Contracting States may provide for exceptions to the protection granted by the Convention for private use, use of short excerpts in connection with reporting of current events, so-called ephemeral recordings, use solely for the purposes of teaching or scientific research and, generally, the same kinds of limitations as in connection with copyright in literary or artistic works (Art. 15).

11. The Rome Convention is essentially based on the principle of national treatment. This means that Contracting States shall grant beneficiaries from other Contracting States the same protection as they grant to their own beneficiaries (Arts. 4, 5 and 6).

12. There is, however, in the Convention a strong element of reciprocity. This is particularly clear in connection with the right to remuneration under Article 12. States have a possibility to make extensive reservations as regards this Article. They can, for instance, declare that they will not apply it in respect of certain uses, or that they will, as regards phonogram producers who are nationals of another Contracting State, limit the extent of protection and its term to what that State itself provides for. In this latter aspect it is, however, important to note that the fact that a State does not grant protection to the same categories of beneficiaries as another State is not considered as a difference in protection giving the right to such a limitation as is just mentioned (Art. 16).

13. States may also declare that they will not apply Article 12 at all (Art. 16).

#### Flexibility of the Convention

14. The Rome Convention is a flexible instrument that permits a number of alternatives to States on the question of national treatment, on the points of attachment, on the choice of the beneficiary with regard to Article 12, and on individual distribution or collective use of remuneration arising from the implementation of Article 12. As regards the points of attachment, most States have chosen to give protection to the producers of phonograms according to the nationality of the beneficiary (criterion of nationality), whereas a few States afford protection according to the place where the first fixation of the sound was made (criterion of fixation) or to the place of first publication (criterion of publication). Some States that base protection on the criterion of fixation are considering basing protection on the criterion of nationality. This flexibility may be considered as

<sup>2</sup> Sections containing specific recommendations are marked with an asterisk.

an attribute of the Convention that could facilitate adherence by non-contracting States. Moreover, this flexibility enables States with differing practices (for example those advocating collective use and those advocating individual distribution) to reach practical agreements on reciprocity.

#### \* Success of the Convention

15. Twenty-one States have adhered to the Convention. Moreover, a large number of States have legislated in matters related to the Convention; since the adoption of the Convention in 1961 over 50 States have so legislated, half of which have done this for the first time. Indeed, the Convention has had a great impact on national legislation. As of July 1978, 84 States had legislated to protect producers of phonograms, 66 to protect broadcasting organizations and 35 to protect performers. Eight States are currently in a position to adhere to the Convention without the need to adopt new legislation. At recent Intergovernmental Committee meetings on copyright and on the Rome Convention rights, four States have indicated that they are presently considering legislation that would enable them to adhere to the Rome Convention. In short the Convention can no longer be considered to suffer from its so-called "pioneer" aspects.

16. While a large number of States have legislated on matters related to the Rome Convention, more States have legislated to protect producers of phonograms than have legislated to protect performers and broadcasting organizations. The Subcommittee recommends that States, which have not already done so, should legislate to give protection to performers and broadcasting organizations. The enactment of such legislation would enable certain non-contracting States to be in a position to adhere to the Convention. In this connection, the attention of national legislators is drawn to the Model Law concerning the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (1974), which provides guidance for the drafting of national legislation.

#### \* Promotion of the Minimum Rights of the Three Beneficiaries

17. Having recommended that States adhere to the Convention and noting that a large number of States would need to enact legislation to give protection to performers and broadcasting organizations in order to be in a position to do so, the Subcommittee decided to highlight a number of points that should be considered by national legislators so that they take due account of the minimum rights provided for in the Convention.

18. The three major provisions of Article 7, which provide protection to performers, were described in the Introduction. While all three of these provisions are of equal importance and essential to the protection of performers, the Subcommittee decided to draw particular attention to the possibility for performers to prevent the reproduction of a fixation of their performance. This provision was deemed to be of particular significance for two reasons. First, the increased and widespread use of new techniques now available to reproduce and disseminate fixations makes it essential today that national laws reflect this provision. These new techniques have made it possible, for example, for fixations to be incorporated by reproduction of commercial phonograms in television programs and for phonograms to be re-recorded and reproduced as background music or as music accompanying ballet performances. These practices are currently widespread. Second, the Subcommittee observed that protection provided for in the provisions has not always been clearly reflected in national laws. Consequently some guidance was considered desirable to ensure that protection is effectively provided for in national laws.

19. The provisions in the Model Law are adequately specific on this issue and provide a clarification on the extent of authorization that should be required from performers for reproduction of fixations. The relevant paragraphs in Section 2 of the Model Law are as follows:

#### Section 2

"(1) Without the authorization of the performers, no person shall do any of the following acts: . . .

(d) the reproduction of a fixation of their performance, in any of the following cases: . . .

(ii) where the reproduction is made for purposes different from those for which the performers gave their authorization; . . .

(2) In the absence of any contractual agreement to the contrary or of circumstances of employment from which the contrary would normally be inferred:

(a) the authorization to broadcast does not imply an authorization to license other broadcasting organizations to broadcast the performance;

(b) the authorization to broadcast does not imply an authorization to fix the performance;

(c) the authorization to broadcast and fix the performance does not imply an authorization to reproduce the fixation;

(d) the authorization to fix the performance and to reproduce the fixation does not imply an authorization to broadcast the performance from the fixation or any reproduction of such fixation."

20. Although a large number of States have granted protection to producers of phonograms, the serious and growing problem of unauthorized reproduction of phonograms (so-called piracy), which also affects the interests of various rights holders, but especially those of performers and producers of phonograms, render it essential for States to enact national laws to reflect the protection of Article 10 of the Convention and to adopt more effective national measures to enforce the laws and to deter unauthorized duplication. Section 4 of the Model Law provides guidance on how legislation should be drafted to provide producers of phonograms with Article 10 rights. The attention of States is also drawn to the Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms. States should also consider ways to ensure that compensation payments are made to right owners, especially to producers of phonograms and to performers in order to mitigate the economic consequences of private copying of fixations. In this last connection, the Subcommittee endorsed the recommendations of the Subcommittee on videograms which met in September 1978.

21. Concerning the protection of broadcasting organizations, national legislators should ensure that the protection provided for in Article 13 of the Convention is effectively provided for in national laws. Section 6 of the Model Law provides guidance on how this might be accomplished. The attention of States is also drawn to the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite as well as, to the extent applicable, to the European Agreement on the Protection of Television Broadcasts. The latter instrument provides for protection, *inter alia*, against cable distribution of television broadcasts.

#### \* Protection of the Rights of Performers, Producers of Phonograms and Broadcasting Organizations in the Light of New Developments

22. The technological developments, referred to in the Introduction, make it necessary today for national laws to include not only the minimum rights provided for in Ar-

ticles 7, 10 and 13 but also to provide for the protection for the beneficiaries against uses made possible by the new media. Two new technological developments were of particular concern to the beneficiaries and to the Subcommittee — that of videograms and that of cable television.

23. Concerning videograms, the performers were at an unique and unintended disadvantage since the protection provided for in Article 7 is no longer applicable once the performer has consented to the incorporation of his performance in a visual or audiovisual fixation (Art. 19). This provision in the Convention was envisaged to relate only to cinema films and not to videograms which did not exist at the time the Convention was adopted. The Subcommittee recalled that the Subcommittee on videograms that met in September 1978 recommended that national legislators should seek to overcome the difficulties created for performers in the protection of their rights and the safeguarding of their professions if Article 19 is applied to the case of the performers' consent to the incorporation of a performance in a videogram.

24. The unauthorized use of broadcasts in videograms had equally serious economic effects on broadcasting organizations. National legislators should ensure that adequate protection be provided to broadcasting organizations on the use of this technique. Particular protection is required for the videorecording of television broadcasts, and national laws should strictly define and delimit private use and use for teaching purposes that are outlined in Article 15 of the Convention.

25. With regard to cable television, the Subcommittee noted that unless protection were granted to the three beneficiaries serious economic harm would be caused to their professions or industries. The Subcommittee supported the conclusion reached by the Subcommittee on this subject which met in July 1978. These conclusions were that domestic law should treat original cable transmissions as broadcasts, and that the three beneficiaries covered by the Rome Convention should be given, as a minimum, the same protection for these transmissions as for broadcasts. Furthermore, effective protection was particularly called for with regard to the widespread and rapidly expanding distribution by cable of national and especially foreign television broadcasts.

26. The rights of broadcasting organizations and performers are closely linked on this issue. By providing broadcasting organizations with rights over cable use, performers would have the possibility of obtaining protection through their contractual relations with such organizations.

#### **The Effect of Article 12 Rights on Copyright Royalties**

27. For many years, it has been said by non-governmental organizations representing authors and composers that the introduction of broadcasting and public performance rights for producers of phonograms and performers has had an adverse effect on the royalties of authors and composers deriving from the performing rights in their works (the so-called "cake theory").

28. An invitation was issued to these non-governmental organizations by the Secretariat of the Intergovernmental Committee in a circular letter in May 1976, requesting figures to substantiate the allegation of adverse effects. No such evidence has been submitted. Several States members of the Subcommittee expressed the firm view that the evidence in their countries, and the evidence available to the Subcommittee, indicates conclusively that copyright royalties have not decreased as a result of the remuneration paid to performers and producers of phonograms. It is, there-

fore, clear that there is no evidence to support the proposition that authors' revenue has decreased as a result of neighboring rights. It has been argued further that the revenue of authors and composers would have increased even more than it has done if there had been no secondary use rights in phonograms. This proposition has never been proved and is, by its nature, impossible to disprove. The Subcommittee, therefore, concludes that the second argument cannot be sustained either. In addition, the Subcommittee believes that a possible adverse effect on authors' royalties would not in any event constitute a sufficient reason for opposing the rights provided for in the Rome Convention since justice demands that performers and producers of phonograms should be remunerated for secondary use of phonograms.

#### **\* Collection and Distribution of Remuneration**

##### *A. Introductions, alternative arrangements and practical considerations*

29. Experience in 32 countries of administering rights of performers and producers of phonograms granted in accordance with Article 12 of the Rome Convention has shown that, by harmonizing the interests of the beneficiaries, satisfactory arrangements, both efficient and reasonably cheap, may be made for the purpose of collecting, distributing and applying remuneration due in respect of broadcasting and communication to the public of phonograms published for commercial purposes. Indeed such arrangements have been found not only to be economically feasible, but also to present fewer difficulties than appear at first sight. In fact, four such systems exist in countries with no legislation to this effect. The functioning of all of these systems refutes the argument that the Convention is difficult to apply in practice. According to the interpretation of the Convention, entitlement to remuneration shall in all cases be determined by the country of collection in accordance with private international law. Foreign beneficiaries are entitled to national treatment.

30. The arrangements required must deal with both national situations (collection, distribution and application of remuneration due to national performers and producers) and international situations (collection, distribution and application of remuneration due to foreign performers and producers). The former normally present few problems. The legal and practical requirements for solution of these problems at the international level can best be satisfied by setting up "collection/distribution societies" in all countries where national legislation establishes rights for performers or producers, or both, corresponding to those provided for in Article 12. These societies should represent performers and producers and there are certain advantages in having one society only, representing both. A prerequisite for the functioning of these societies is that they must have valid mandates or assignments of individual rights of those entitled to remuneration. The validity of these mandates or assignments is to be judged (in accordance with the principles of private international law) by the law of the country where the mandates or assignments are given. Practical guidance for the establishment and operation of such societies, and for bilateral agreements between them, are set out below.

31. The experience in various countries of administering Article 12 rights illustrates that there are several alternative arrangements that can be established to implement such rights. Different arrangements can include:

(a) Remuneration distributed to both nationals and foreigners according to the rules of the collecting society in the country of collection. The collecting society in the country of collection sends to the society in the country of distribution a list (names of performers and the sums they

are entitled to), without evidence of the user. In such cases the society in the country of distribution consequently has no possibility of changing the beneficiary or the amounts for distribution since it has no evidence of the extent of use. Only the balance of the total sum of traceable remuneration due to identifiable performers would be transmitted. If the principles of distribution of the society in the country of collection are felt to be inappropriate or inequitable by the distributing society, this society can change the distribution without having agreed to such a change in a bilateral agreement, provided it has valid mandates or assignments from those entitled to remuneration.

(b) Collection and distribution of remuneration based on a practice whereby the collection and distribution to nationals would be governed by the law of the country and the rules of the national society in the country of collection, whereas distribution of any remuneration transmitted to a second country would be governed by the rules of the national society of that country, provided these societies have valid mandates or assignments from those entitled to remuneration. In contrast to (a) above this arrangement is based on bilateral agreements. This arrangement is advocated by the international federations representing producers of phonograms and videograms (IFPI) and performers (FIM and FIA) and is reflected in the 4th London Principle agreed to by these organizations in 1978.

(c) Remuneration remaining in the country of collection and distributed according to the rules of the society in that country, provided the society has valid mandates or assignments from those entitled to remuneration. This arrangement calls for bilateral agreements with collection/distribution societies in other Contracting States. Reasons for the remuneration remaining in the country of collection may include national economic conditions, problems of currency regulation or incompatible methods for calculating the remuneration and the methods of distribution in two given countries.

(d) Remuneration due to one beneficiary remaining in the country of collection and used for collective purposes.

32. A number of practical considerations should be taken into account regardless of the choice made among any of the above arrangements. For example, the collection and distribution societies have, in some countries, found that the most effective way of collecting public performance revenue, as opposed to broadcasting revenue, is to ask the national authors' society to do it on behalf of the Article 12 beneficiaries on a commission basis. This is so because they collect from the same users in any event, and the additional cost incurred in the collection of Article 12 remuneration is marginal. The commission, which provides an additional income for the authors' societies, is a contribution towards meeting their own administrative expenses, thus increasing their cost effectiveness.

33. The experience of existing collecting societies has shown that practical difficulties in identifying the individual performers and producers, whether nationals or foreigners, entitled to broadcasting revenue are less than those involved in dealing with public performance revenue, in respect of which identification of every participating performer is not likely to prove possible. Similarly, it may not be possible to establish precisely the extent to which any particular phonogram is used. In such cases, however, the principle of benefiting performers can be observed by collective application of an appropriate proportion of the revenue received. When revenue is deemed undistributable, at present, it remains in the country in which it arises. Some bilateral agreements, based on the FIM/IFPI "London" Principles, 1969, expressly so provide.

34. Legislation in some countries provides that, in the absence of agreement between performers and producers of phonograms, the sharing of remuneration from performance rights should be 50/50. The Model Law concerning the Protection of Performers, Producers of Phonograms and Broadcasting Organizations in Section 5(2) provides that "unless otherwise agreed between the performers and the producer, half of the amount received by the producers under paragraph (1) shall be paid by the producers to the performers." It is recalled that the "amount received by the producers" refers to the total sum due to both producers and performers. The Model Law as a whole has the support of FIM, FIA and IFPI and it is common ground between the three organizations that any country adhering to the Convention on the basis of the Model Law should apply this provision.

35. The Rome Convention leaves open the question whether remuneration due to performers should be distributed to individual performers or used for collective or social purposes, that is, for the benefit of the profession as a whole (see paragraph 688.1 of the Summary records of the proceedings of the Diplomatic Conference). Subject to the provisions of the national law, performers in a given country may control the use to which the remuneration to which they are entitled under Article 12 is put, by giving appropriate mandates or assignments of their rights to their national collection/distribution societies.

#### *B. Guidelines for the establishment and operation of collecting societies for Article 12 rights*

36. The following guidelines are presented to facilitate the practical application of Article 12 rights:

(1) In all countries where national legislation establishes rights for performers or producers of phonograms, or both, corresponding to those specified in Article 12 of the Rome Convention, societies should be set up for the purpose of collecting, distributing and applying revenue due in respect of broadcasting and communication to the public of phonograms published for commercial purposes. Such societies must have valid mandates or assignments of individual rights of those entitled to remuneration.

(2) Collecting societies representing performers and producers of phonograms may be established either as a single joint society or as separate societies. Both solutions have been adopted by Contracting States. Joint societies, as mentioned in paragraph 30 above, should be composed of performers and producers of phonograms who would be represented on an equal footing. Performers and producers should choose their own representatives, either directly or through representative organizations.

(3) Where broadcasting and/or public performance revenue is due either to producers or to performers, or to both, as a result of legal provisions, and, in the last case, in the absence of any legal provision relating to the division of the revenue between performers and producers, the rules of the society or societies referred to in paragraphs (1) and (2) above should specify that the revenue shall be divided equally between performers and producers.

(4) The society or societies referred to in paragraphs (1) and (2) above should work on a non-profit basis and wherever possible be established in accordance with the national legislation governing non-profit-making institutions or analogous organizations. Whatever the legal form adopted, such societies should have the legal personality required:

- (i) to enter into binding contracts, both at the national and at the international level;
- (ii) to exercise the mandates received from performers and producers.

(5) Membership of a performers' union or association or a producers' organization should not be made a condition of admittance to the society or societies referred to in paragraphs (1) and (2) above.

(6) Within a joint society, as envisaged in paragraph (2) above, the interests of performers and producers respectively may each be represented in one or more separate sub-units, provided that:

- (i) there should be a joint executive organ, with equal representation of performers and producers;
- (ii) the voting strength of performers and producers should remain equal in the joint executive organ or in any other joint organ, irrespective of the number of sub-units representing either performers or producers;
- (iii) the joint executive organ should be responsible for all negotiations concerning the remuneration payable in respect of broadcasting and public performance of phonograms published for commercial purposes;
- (iv) the distribution and application of the revenue allocated to each group of beneficiaries should be decided by separate sub-units representing performers and producers, respectively.

(7) Should the executive organ of a joint society so decide, it may be presided over by an independent person, appointed by agreement between the representatives of performers and producers.

(8) Wherever possible, decisions of a joint society should be adopted unanimously or by consensus, the rules governing voting being framed to this end. On occasions when this does not prove possible, and where there is an independent chairman, the latter may be given a vote.

(9) The question as to whether a representative or representatives of the public authorities should participate in meetings or be a member of the executive organ of a joint society should be decided in each case in the light of national practice.

(10) The rules of the society or societies referred to in paragraphs (1) and (2) above should provide, *inter alia*:

- (i) that the administrative costs necessarily incurred in the efficient conduct of the business of the society should be a first charge on the revenue received;
- (ii) that administrative costs and capital expenditure, including the acquisition or rental of real property, should be subject to effective scrutiny of the membership;
- (iii) the conditions under which a proportion of the revenue received may be used, either directly by the society itself or otherwise (for example, through representative organizations of performers and producers) for the defense and promotion of the rights of performers and producers at both the national and international level; such uses should be without prejudice to the right of the sub-units representing performers and producers to make separate allocations for these purposes;
- (iv) the establishment of an adequate reserve fund;
- (v) the general objectives in pursuance of which the two groups of beneficiaries may distribute and apply the revenue allocated to each of them, and the procedures by which decisions regarding such uses shall be made, including the methods by which members of the society shall be informed of such decisions;

(vi) the manner in which indemnities arising from bilateral agreements should be fulfilled.

(11) A report on the activities of the society or societies referred to in paragraphs (1) and (2) above should be made available to members periodically (normally annually). This report should include:

- (i) a detailed statement of accounts, duly certified by an independent auditor;
- (ii) explanatory information concerning expenditure incurred by the society pursuant to paragraph (10) above;
- (iii) explanatory information concerning any other expenditure incurred by the society or its sub-units.

(12) With particular regard to the collection of public performance revenue, every effort should be made to obtain the cooperation of existing collecting agencies such as authors' societies, provided that this can be done at reasonable cost.

### C. International bilateral agreements

37. The following guidelines are presented in order to facilitate the establishment of bilateral agreements between collecting societies:

(1) Bilateral agreements between collection/distribution societies in different countries should be legally binding contracts.

(2) Such agreements should be made for a substantial period (not less than two years) and should be automatically renewed unless denounced by either party.

(3) Such agreements should contain provisions for the settlement of any dispute as to their interpretation and application. The suggested mechanism would be an international arbitration tribunal consisting of an equal number of representatives nominated by FIM and FIA on the one hand, and by IFPI on the other, with a chairman appointed by mutual agreement. The agreement should provide that either party may require arbitration and that both parties undertake to accept and apply the decision of the arbitration tribunal. The determination of who is to pay arbitration costs, if any, may be decided by the tribunal.

(4) Such agreements should be consistent with the arrangement and practice chosen to implement Article 12 rights.

- (5) (i) Such agreements should clearly indicate where the responsibility for meeting claims, and costs properly incurred in relation thereto, should lie.
- (ii) The two societies party to such an agreement should grant each other mutual indemnities against successful claims, and costs properly incurred in relation thereto, from performers and producers in their respective countries. Such indemnities should take effect to the extent that such claims cannot be met from revenue received by the defendant society in respect of performers or producers in the country whence the claim originates and retained by the defendant society because deemed not for distribution. For the purposes of this calculation, revenue received in respect of performers should not be brought into account in relation to claims by producers, nor vice versa.

## List of Participants

### I. Members of the Committee

**Austria:** R. Dittrich; S. von Friedberg. **Brazil:** C. F. Mathias de Souza; G. R. B. Arroio. **Czechoslovakia:** J. Matuš; M. Jelínek; J. Čížek. **Denmark:** W. Weincke. **Mexico:** J. M. Teran Contreras; N. Pizzaro; M. F. Ize de Charrin; V. Blanco Labra; J. Larequi Radilla. **Niger:** A. Mahaman Toumani; A. Bonkaney. **Sweden:** A. H. Olsson; M. Böttiger. **United Kingdom:** V. Tarnofsky; A. Holt.

### II. Observer States

**Germany (Federal Republic of):** A. Muehlen. **Luxembourg:** E. Emringer; J. Jungers. **Norway:** S. Gramstad.

### III. Intergovernmental Organizations (Observers)

**Organization of American States (OAS):** O. Godoy Arcaya; E. F. Hurtado de Mendoza.

### IV. International Non-Governmental Organizations (Observers)

**European Broadcasting Union (EBU):** M. Cazé; W. Rump-horst. **International Bureau of the Societies Administering the Rights of Mechanical Recording and Reproduction (BIEM):** J.-A. Ziegler. **International Confederation of Societies of Authors and Composers (CISAC):** J.-A. Ziegler.

**International Copyright Society (INTERGU):** G. Halla. **International Federation of Actors (FIA):** G. Croasdel. **International Federation of Film Producers Associations (FIAPF):** A. Brisson. **International Federation of Musicians (FIM):** J. Morton; R. Leuzinger. **International Federation of Producers of Phonograms and Videograms (IFPI):** S. M. Stewart; G. Davies; E. Thompson; H. H. von Rauscher auf Weeg; C. de Souza Amaral; H. Jessen. **International Literary and Artistic Association (ALAI):** P. Banki. **International Music Council (IMC):** J. Morton.

### V. Secretariat

#### International Labour Office (ILO)

G. Bohère (*Chief, Salaried Employees and Professional Workers Branch, Sectoral Activities Department*); S. C. Cornwell (*Salaried Employees and Professional Workers Branch, Sectoral Activities Department*).

#### United Nations Educational, Scientific and Cultural Organization (UNESCO)

M.-C. Dock (*Director, Copyright Division*).

#### World Intellectual Property Organization (WIPO)

K.-L. Liguier-Laubhouet (*Deputy Director General*); C. Masouyé (*Director, Copyright and Public Information Department*); S. Alikhan (*Director, Copyright Division*); M. Stojanović (*Head, Legislation and Periodicals Section, Copyright Division*).

## National Legislation

### HUNGARY

#### I

### Decree-Law of the Presidium of the Hungarian People's Republic amending and completing the Copyright Act No. III of 1969

(No. 27 of 1978)\*

1. Article 5(2) of the Copyright Act, No. III of 1969<sup>1</sup> (hereinafter referred to as "the Copyright Act"), is replaced by the following provision:

"(2) If the joint work can be separated into independent parts, the co-authors shall be entitled to independent copyright in such parts."

2. The following Article 15A is added to the Copyright Act:

"Article 15A. After the expiration of the protection of the author's economic rights, a charge shall be paid in cases specified by statutory provisions."

3. The following Article 46A is added to the Copyright Act:

"Article 46A. When the property rights in original works of fine art and applied art are transferred, an author's fee shall be paid in cases

and to the extent specified by the Minister of Culture."

4. Article 52(2) of the Copyright Act is replaced by the following provision:

"(2) In the case of infringement of copyright damages shall be payable according to the relevant provisions on liability under civil law. Continuous or serious infringement of the rights attached to the person of the author is also considered to afford entitlement to damages."

5. This Decree-Law shall enter into force on January 1, 1979.

\* Published in *Magyar Közlöny*, of December 7, 1978. English translation provided by the Hungarian Bureau for the Protection of Copyright (ARTISJUS) and revised by WIPO.

<sup>1</sup> See *Copyright*, 1969, p. 236.

## II

**Decree of the Minister of Culture**  
**completing Decree No. 9, of December 29, 1969,**  
**concerning the implementation of the Copyright Act, No. III of 1969**  
 (No. 4, of December 7, 1978) \*

*Article 1*

[Article 5(2) of the Copyright Act]

The following Article 3A is added to Decree No. 9 of December 29, 1969,<sup>1</sup> concerning the implementation of the Copyright Act (hereinafter referred to as "the implementing Decree"):

"Article 3A. The joint work shall be regarded as divisible into independent parts if the parts can be separated from each other and also be used (produced, published, etc.) independently."

*Article 2*

[Article 15A of the Copyright Act]

The following Article 13A is added to the implementing Decree:

"Article 13A. (1) When the property rights in paintings, drawings, reproduced pictorial graphic works and works of applied art marked with serial numbers and the initials of the author, works of sculpture or tapestries are transferred after the expiration of the protection of the author's economic rights, such transfer being effected through the antique shops of the Commission Store Enterprise, the State Book Distribution Enterprise or the "Müwelt Nép" Book Distribution Enterprise, as the case may be (hereinafter referred to as "an intermediary enterprise"), a charge shall be paid to the Art Fund of the Hungarian People's Republic (hereinafter referred to as "the Art Fund").

(2) Museums and museological public collections (Article 4 of Decree-Law No. 9 of 1963) are exempted from the obligation to pay the charge.

(3) The amount of the charge shall be 5 percent of the purchase price to be paid by the buyer. The intermediary enterprise shall be responsible for collecting the charge and transferring it to the Art Fund.

(4) The charge transferred to the Art Fund shall be used by the Fund for the welfare and social purposes of writers and creative artists."

*Article 3*

[Article 46A of the Copyright Act]

The following Article 35A is added to the implementing Decree:

"Article 35A. (1) If the property rights in paintings, drawings, reproduced pictorial graphic works and works of applied art marked with serial numbers and the initials of the author, works of sculpture or tapestries are transferred by the intermediary enterprise, an author's fee shall be paid.

(2) If the property rights in a work mentioned in paragraph (1) are acquired by museums or museological public collections, an author's fee shall be paid by them only if the author is alive.

(3) The author's fee payable on the transfer of the property rights in works of fine art and applied art mentioned in paragraph (1) shall be 5 percent of the purchase price to be paid by the buyer. The intermediary enterprise shall be responsible for collecting the author's fee and for its transfer to the Art Fund.

(4) According to Council of Ministers Decree No. 24, of March 27, 1952, the author's fees received by the Art Fund shall be paid by it to the author of the work of fine art or to his successor in title."

*Article 4*

This Decree shall enter into force on January 1, 1979.

\* Published in *Magyar Közlöny*, of December 7, 1978. English translation provided by the Hungarian Bureau for the Protection of Copyright (ARTISJUS) and revised by WIPO.

<sup>1</sup> See *Copyright*, 1972, p. 201.

**General Studies**

**Employment and Copyright**

Rolande CUVILLIER \*

























## Book Reviews

**Copyright Law in the Soviet Union**, by *Michael A. Newcity*.  
A volume of X-212 pages. Praeger Publishers, New York  
— London, 1978.

The author of this book — who is a member of the New York Bar and also a member of the Committees on Soviet Law, East-West Trade and Investment, and International Copyright Treaties and Laws of the American Bar Association — emphasizes, at the very beginning of his preface, the importance of the Soviet publishing industry. According to him, the publishing houses of the Soviet Union print and disseminate more books than the publishers of any other country of the world; they also publish more works in translation than any other nation. The study of Soviet copyright law is therefore “no mere academic endeavor.”

The book is divided into three parts. The first deals with the origins and development of copyright law in the Soviet Union, the second with the legal protection of literary and artistic property in that country, and the third with “postaccession developments and controversies” (i. e., the developments after the Soviet Union’s accession to the Universal Copyright Convention). Two appendices contain the Fundamentals of Civil Legislation of the USSR (copyright provisions) and the relevant provisions of the Civil Code of the Russian Socialist Federal Soviet Republic (RSFSR). A selected bibliography and an index appear at the end of the volume.

Many readers will probably be surprised to learn that the first Russian copyright law dates back to 1828, and that treaties on bilateral copyright protection were signed as early as in 1861 with France and in 1862 with Belgium. Ivan Turgenev, representing the Russian writers’ circles, attended the International Literary Congress at Paris in 1878 which paved the way to the creation of the Berne Convention.

One of the peculiar features of the Soviet copyright legislation is the concept of “publication,” according to which a work is considered published when it is released to the public, performed in public, displayed in public, diffused by radio or television, or communicated in any other manner to an indeterminate group of persons (Civil Code of the

RSFSR, Art. 476, and the corresponding provisions in civil codes of other Union Republics). The consequence of this is that an unpublished work of a foreign author, national of a Berne Union country, which was first performed in the Soviet Union and thus considered “published” in that country, may be protected under Soviet legislation while at the same time being protected under the Berne Convention in all member States of the Berne Union.

Another important characteristic of the system of copyright protection in the Soviet Union is that the provisions of standard publishing contracts and other standard contracts for the exploitation of works have the force and effect of law. Individual contracts may contain clauses which are not included in such standard contracts; however, if they are less favorable for the author than those established by law or by the standard contract, they are null and void and are replaced by the applicable provisions of the law or clauses of the standard contract.

Among the statutory limitations of the exclusive rights of the author, compulsory purchases are specifically mentioned. Since the right to publish, publicly perform or otherwise use a work may be compulsorily purchased by the State, the author concludes that the right to publish an unpublished work may be overridden by the State’s decision to purchase the rights therein.

A chapter of the book is devoted to the protection of Soviet authors abroad. Prior to 1967 (the year when the first bilateral agreement was concluded by the Soviet Union), the works of Soviet authors were not eligible for copyright protection in most countries, the only major exception being France until 1964.

In the concluding chapters, the author analyzes the prospects for trade in literary property between the United States and the Soviet Union. According to him, they seem relatively good, “though somewhat uncertain.” In this connection, he expresses the opinion that, though the first year after Soviet accession to the Universal Copyright Convention was marked by distrust on the part of United States publishing and artistic circles, “it is a hopeful sign that the problems encountered are legal and/or commercial in nature rather than political.”

M. S.

**Intellectual Property Law in Australia — Copyright**, by James Lahore. One volume of XXXII-744 pages. Butterworths, Sydney, 1977.

In his preface to this book, the author draws the reader's attention to the interesting fact that, although the term "intellectual property" is now generally used to include copyright and industrial property, the practice in Australia has been to use the description "industrial property" to include also the law of copyright. The volume reviewed here deals with the law of copyright, while the subsequent volumes will deal with the law relating to industrial property.

Australian copyright law has been strongly influenced by the copyright law of the United Kingdom, although — according to the author himself — it has now, after the adoption of the Copyright Act of 1968, departed in many respects from the corresponding British legislation. It is therefore not surprising that, on the one hand, this book follows very closely the well-known pattern of the standard work on copyright by Copinger and Skone James and that, on the other hand, various subject matters are dealt with from the point of view of both the Australian Copyright Act and the British Copyright Act of 1911.

The main body of the book is divided into seven parts dealing, respectively, with the nature and development of copyright, subsistence of copyright, proprietary rights, the protection of copyright, the control of its exercise, international copyright, and the rights associated with copyright. It is preceded by a table of cases and a table of statutes. There are several appendices containing, *inter alia*, statutes and regulations, international conventions (including not only the two main copyright conventions, i. e., the Berne Convention and the Universal Copyright Convention, but also the three multilateral conventions dealing with neighboring rights) and a summary of recommendations concerning reprographic reproduction made by the Copyright Law Committee on Reprographic Reproduction (the Franki Committee). A detailed index makes this useful work of reference easier to consult.

Without entering into details on the particularities of Australian copyright law, it is interesting to note that, in Part 7, devoted to "rights associated with copyright," the author deals not only with neighboring rights, the public lending right, the protection of folklore and of type faces, and the *domaine public payant*, but also with "the doctrine of moral right" in the light of the Copyright Act 1968-1976.

M. S.

# Calendar

## WIPO Meetings

(Not all WIPO meetings are listed. Dates are subject to possible changes.)

### 1979

- May 1 to 4 (Geneva) — WIPO Budget Committee**
- May 7 to 11 (Rijswijk) — Permanent Committee on Patent Information (PCPI) — Subgroup on IPC Class 23**
- May 28 to June 1 (Geneva) — Berne Union — Working Group on Problems Arising from the Use of Electronic Computers**  
(convened jointly with Unesco)
- June 11 to 15 (Paris) — Satellites Convention — Committee of Experts on Model Provisions for the Implementation of the Convention**  
(convened jointly with Unesco)
- June 11 to 15 (Geneva) — Nice Union — Preparatory Working Group**
- June 11 to 15 (Washington) — Permanent Committee on Patent Information (PCPI) — Subgroup on IPC Class A 01, etc.**
- June 18 to 29 (Geneva) — Revision of the Paris Convention — Working Group on Conflict Between an Appellation of Origin and a Trademark**
- June 25 to 29 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on General Information, and ICIREPAT Technical Committee for Standardization (TCST)**
- July 2 to 6 (Paris) — Berne Union and Universal Copyright Convention — Working Group on the overall problems posed for developing countries concerning access to works protected under copyright conventions**  
(convened jointly with Unesco)
- July 2 to 6 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Search Information**
- July 9 to 12 (Geneva) — Paris Union — Meeting of Experts on Industrial Property Aspects of Consumer Protection**
- September 4 to 6 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Patent Information for Developing Countries**
- September 10 to 14 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Planning**
- September 24 to October 2 (Geneva) — Governing Bodies (WIPO General Assembly, Conference and Coordination Committee; Assemblies of the Paris, Madrid, Hague, Nice, Lisbon, Locarno, IPC, PCT and Berne Unions; Conferences of Representatives of the Paris, Hague, Nice and Berne Unions; Executive Committees of the Paris and Berne Unions; Committee of Directors of the Madrid Union; Council of the Lisbon Union)**
- October 15 to 26 (Geneva) — Nice Union — Committee of Experts**
- October 18 and 19 (Geneva) — ICIREPAT — Plenary Committee**
- October 22 to 26 (Geneva) — Permanent Committee on Patent Information (PCPI), and PCT Committee for Technical Cooperation (PCT/CTC)**
- October 22, 23 and 30 (Paris) — Rome Convention — Intergovernmental Committee**  
(convened jointly with ILO and Unesco)
- October 24 to 26 and 31 (Paris) — Berne Union — Executive Committee**  
(sitting together, for the discussion of certain items, with the Intergovernmental Committee of the Universal Copyright Convention)
- November 26 to December 13 (Madrid) — Diplomatic Conference on Double Taxation of Copyright Royalties**  
(convened jointly with Unesco)
- November 27 to 30 (Geneva) — Paris Union — Group of Experts on Computer Software**
- December 10 to 14 (Geneva) — International Patent Classification (IPC) — Committee of Experts**

### 1980

- February 4 to March 4 (Geneva) — Revision of the Paris Convention — Diplomatic Conference**

## UPOV Meetings

### 1979

May 21 to 23 (La Minière, France) — Technical Working Party for Agricultural Crops

June 5 to 7 (Avignon) — Technical Working Party for Vegetables

July 17 to 19 (Hanover) — Technical Working Party for Ornamental Plants

September 18 and 19 (Geneva) — Administrative and Legal Committee

September 25 to 27 (Wageningen) — Technical Working Party for Forest Trees

October 16 and 19 (Geneva) — Consultative Committee

October 17 to 19 (Geneva) — Council

November 12 to 14 (Geneva) — Technical Committee

November 15 and 16 (Geneva) — Administrative and Legal Committee

## Other Meetings in the Field of Copyright and/or Neighboring Rights

### 1979

#### Non-Governmental Organizations

##### European Broadcasting Union (EBU)

Legal Committee — September 25 to 28 (Bergen)

##### International Confederation of Societies of Authors and Composers (CISAC)

Legal and Legislation Committee — May 8 and 9 (Madrid)

##### International Federation of Actors (FIA)

Congress — September 25 to 29 (Budapest)

##### International Federation of Library Associations (IFLA)

Congress — August 27 to September 1 (Copenhagen)

##### International Federation of Producers of Phonograms and Videograms (IFPI)

Council — May 14 and 15 (Palma de Mallorca)

##### International Organization for Standardization (ISO)

General Assembly — September 17 to 21 (Geneva)

##### International Writers Guild (IWG)

Congress — June 21 to 25 (Helsinki)

### 1980

##### International Confederation of Societies of Authors and Composers (CISAC)

Congress — November (Dakar)

##### International Publishers Association (IPA)

Congress — May 18 to 22 (Stockholm)