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Berne Union

Group of Independent Experts on the Impact of Cable Television in the Sphere of Copyright and Neighboring Rights

Second Session

(Geneva, May 25 to 27, 1981)

Note

established by the Secretariats

1. The "Group of Independent Experts on the Impact of Cable Television in the Sphere of Copyright and Neighboring Rights" (hereinafter referred to as "the Group of Experts") met from May 25 to 27, 1981, at the headquarters of WIPO.

2. At the end of its session held from March 10 to 13, 1980, the Group of Experts adopted a statement enunciating a certain number of principles related to this matter and recommended that the Secretariats should prepare draft provisions implementing these principles, which should be accompanied by detailed explanations. It also considered that these principles should be submitted for the consideration of the Intergovernmental Committees of the Berne, Universal and Rome Conventions, respectively.

3. In the framework of the preparation of the relevant documents, the Group of Experts was convened again, for the specific purpose of examining "Draft Model Provisions for the Protection of Authors, Performers, Producers of Phonograms and Broadcasting Organizations in Connection with Distribution by Cable" submitted by the Secretariats (document UNESCO/WIPO/IGE/CTV/II/2).

4. The meetings were chaired by Mr. William Wallace, the Chairman of the Group of Experts.

5. The list of the experts, the observer from ILO, and the representatives of Unesco and WIPO appears in document UNESCO/WIPO/IGE/CTV/II/3 (Annex 1).

6. Having noted its Agenda (document UNESCO/WIPO/IGE/CTV/II/1), the Group of Experts heard statements from representatives of the following international non-governmental organizations: European Broadcasting Union (EBU), International Confederation of Societies of Authors and Com-

posers (CISAC), International Copyright Society (INTERGU), International Federation of Actors (FIA), International Federation of Associations of Film Distributors (FIAD), International Federation of Film Producers Associations (FIAPF), International Federation of Musicians (FIM), International Federation of Producers of Phonograms and Videograms (IFPI), International Literary and Artistic Association (ALAI). The list of these organizations' representatives who made submissions before the Group of Experts appears in document UNESCO/WIPO/IGE/CTV/II/4 (Annex 2). In addition, in the absence of its representative, the statement of the International Alliance for Diffusion by Wire (AID) was distributed in a written form.

7. The draft presented by the Secretariats was the subject of a wide-ranging debate amongst the members of the Group of Experts, which the representatives of the above-mentioned organizations did not attend. However, the Group of Experts held two plenary sessions at which these organizations were present.

8. After general discussion the Group of Experts decided first to examine the problems raised by the cable distribution of broadcast programs. To this end, it reviewed the draft model provisions, article by article. In the course of this examination the Secretariats prepared a redraft of Articles 1 and 2 on the basis of the discussions of May 26 (document UNESCO/WIPO/IGE/CTV/II/5). Nonetheless, the Group of Experts, while putting forward a number of basic suggestions which were noted by the Secretariats, considered that it was not in a position to adopt a final text and that the drafts should be subjected to further in-depth study.

9. At the outcome of its deliberations, the Group of Experts adopted the following resolutions:

“In the light of the discussions of the Independent Experts Group and the statements of the international non-governmental organizations, the Secretariats should prepare a new working paper.

The new working paper should deal in separate parts with

- (i) the rights of authors, performers, phonogram producers and broadcasters in the case of the cable distribution of broadcasts including their works, performances, phonograms and broadcasts, and

- (ii) the rights of the same four kinds of beneficiaries in the case of the cable distribution of their works, performances, phonograms and broadcasts without any intervening broadcast.

The new working paper should merge model provisions and commentary.

The Secretariats should consult the Independent Experts individually and/or as a group and may contact in the meantime international non-governmental organizations for facts and advice.”

ANNEX 1

List of Participants

I. Experts

M. Jan Corbet
Professeur, Université libre de Bruxelles, Belgique

Dr. Adolf Dietz
Member of the staff of the Max-Planck Institute for Foreign and International Patent, Copyright and Competition Law, Munich, Federal Republic of Germany

Mr. Victor A. Dosortsev
All Union Research Institute on Soviet Legislation, Moscow, Soviet Union

M. Mario Fabiani
Professeur, Université de Rome, Italie

Mr. Alan Latman
Professor, New York University School of Law, New York, United States of America

Mr. William Wallace
Lawyer, Surrey, United Kingdom

Mr. Michel Walter
Lawyer, Vienna, Austria

II. Observer

International Labour Office (ILO): S. C. Cornwell.

III. Secretariat

World Intellectual Property Organization (WIPO)

A. Bogsch (*Director General*); C. Masouyé (*Director, Public Information and Copyright Department*); G. Boytha (*Head, Copyright Law Division*).

United Nations Educational, Scientific and Cultural Organization (UNESCO)

E. Guerassimov (*Legal Officer, Copyright Division*).

ANNEX 2

List of Representatives of International Non-Governmental Organizations deposing before the Group

European Broadcasting Union (EBU): W. Rumphorst. **International Confederation of Societies of Authors and Composers (CISAC):** J.-A. Ziegler; M.J. Freegard; C. Joubert; P. Liechti. **International Copyright Society (INTERGU):** G. Halla. **International Federation of Actors (FIA):** G. Croasdell. **International Federation of Associations of Film Distributors (FIAD):** G. Grégoire. **International Fed-**

eration of Film Producers Associations (FIAPF): A. Brisson; M. Ferrara Santamaria; S.F. Gronich; B. Norris. **International Federation of Musicians (FIM):** J. Morton; R. Leuzinger; Y. Burckhardt. **International Federation of Producers of Phonograms and Videograms (IFPI):** J. Hall; G. Davies; E. Thompson. **International Literary and Artistic Association (ALAI):** M. J. Freegard; C. Joubert; J.-A. Ziegler.

National Legislation

BRAZIL

I

Law Amending the Law No. 5988 of December 14, 1973, on the Rights of Authors and Other Provisions

(No. 6800, of June 25, 1980) *

Article 1

Law No. 5988, of December 14, 1973,¹ is henceforth amended as follows:

Article 83. Cassettes, cartridges, discs, videophonograms and similar equipment, containing tapes of sound recordings, may not be sold, offered for sale, acquired or stored for the purpose of sale, unless they physically contain, in a prominent and non-detachable form, the registration number, at the General Taxpayers' Registry (CGC) of the Ministry of Finance, of the company responsible for the industrial process of reproduction of the recording.

Article 117.

- (ix) supervise the strict and faithful compliance of producers of videophonograms and phonograms, publishers and copyright associations with their obligations towards the owners of authors' and performers' rights and effect, at

the latter's request, all the necessary verifications, including audits and inspections of accounts;

- (x) impose accounting rules for the legal entities referred to in (ix) above, so that the account plans and bookkeeping entries permit adequate verification of the number of copies reproduced and sold;
- (xi) make it compulsory for the labels that distinguish the copies of videophonograms and phonograms to be authenticated by the National Copyright Council, in accordance with any instructions that it may issue.

Article 2

This Law shall come into force on the date of its publication.

Article 3

Any provisions which conflict with those contained herein are repealed.

* This Law was published in the *Diário Oficial* No. 119, of June 26, 1980. — WIPO translation.

¹ See *Copyright*, 1974, pp. 181-191.

II

Law Amending the Decree-Law of 1940 (No. 2848)**Providing a new wording for Articles 184 and 186 of the Penal Code,
approved by the Decree-Law of December 7, 1940**

(No. 6895, of December 17, 1980) *

Article 1

Articles 184 and 186 of the Penal Code, approved by Decree-Law No. 2848, of December 7, 1940, shall henceforth have the following wording:

Article 184. Violation of Copyright:

Penalty — detention for three months to one year, or a fine of 2,000 to 10,000 cruzeiros.

(1) If the violation consists in the reproduction by any means of an intellectual work, in whole or in part, for commercial purposes, without the express authorization of the author or his representative, or consists in the reproduction of a phonogram or videophonogram without the authorization of the producer or his representative:

Penalty — imprisonment for one to four years and a fine of 10,000 to 50,000 cruzeiros.

(2) The penalty specified in the preceding paragraph shall apply also to any person who sells, offers for sale, brings into the country, acquires, conceals

or stores for the purpose of sale the original or copy of an intellectual work, phonogram or videophonogram produced in violation of copyright.

Article 186. With regard to the crimes referred to in this Chapter, proceedings shall be instituted only by means of a complaint, except when they are brought against a government entity, autonomous organization, public corporation, mixed economy company or foundation instituted by the Government, and in the cases provided for in paragraphs (1) and (2) of Article 184 of this Law.

Article 2

This Law shall come into force on the date of its publication.

Article 3

Any provisions which conflict with those contained herein are repealed.

* This Law was published in the *Diário Oficial* No. 241, of December 18, 1980. — WIPO translation.

General Studies

Questions of Broadcasting by Satellite with Special Reference to Authors' Rights

István SZILÁGYI *

Correspondence

Letter from Pakistan

A.R. AKHTAR *

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¹ See *Copyright*, 1981, p. 65.

² *Ibid.*, 1981, p. 186.

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Calendar

WIPO Meetings

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

1981

- September 7 to 10 (Geneva) — Permanent Committee for Patent Information (PCPI) — Working Group on Patent Information for Developing Countries**
- September 10 to 18 (Geneva) — Permanent Committee for Patent Information (PCPI) — Working Group on Planning**
- September 24 and 25 (Nairobi) — Treaty on the Protection of the Olympic Symbol — Diplomatic Conference**
- September 28 to October 24 (Nairobi) — Revision of the Paris Convention — Diplomatic Conference**
- October 14 to 16 (Bogotá) — Committee of Experts on Means of Implementation of Model Provisions for National Laws on Intellectual Property Aspects of the Protection of Expressions of Folklore in the Latin-American and Caribbean States (convened jointly with Unesco)**
- October 19 to 23 (Kingston) — Regional Seminar on Copyright for English-speaking Caribbean States (convened jointly with Unesco)**
- November 9 to 13 (Geneva) — Permanent Committee for Patent Information (PCPI) and PCT Committee for Technical Cooperation**
- November 11 to 13 (Geneva) — Rome Convention — Intergovernmental Committee (convened jointly with ILO and Unesco)**
- November 16 to 24 (Geneva) — Governing Bodies (WIPO General Assembly, Conference and Coordination Committee, Assemblies of the Paris, Madrid, Hague, Nice, Lisbon, Locarno, IPC, PCT, Budapest, TRT 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)**
- November 26 to 28 (New Delhi) — Regional Seminar on Copyright for Asian and Pacific States (convened jointly with Unesco)**
- November 30 to December 7 (New Delhi) — Berne Union — Executive Committee — Extraordinary Session (sitting together, for the discussion of certain items, with the Intergovernmental Committee of the Universal Copyright Convention)**
- December 7 to 11 (Geneva) — International Patent Classification (IPC) — Committee of Experts**

UPOV Meetings

1981

- September 8 to 10 (Wädenswil) — Technical Working Party for Vegetables**
- September 22 to 25 (Wageningen) — Technical Working Party for Fruit Crops**
- October 6 to 8 (Antibes) — Technical Working Party for Ornamental Plants**
- October 12 to 14 (Geneva) — Administrative and Legal Committee**
- October 14 to 16 (Geneva) — Technical Committee**
- November 9 (Geneva) — Consultative Committee**
- November 10 (Geneva) — 1981 Symposium**
- November 10 to 12 (Geneva) — Council**

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

Non-Governmental Organizations

1981

Internationale Gesellschaft für Urheberrecht (INTERGU)

Congress — September 21 to 25 (Toronto)

International Federation of Actors (FIA)

Executive Committee — September 23 to 25 (Copenhagen)

1982

International Literary and Artistic Association (ALAI)

Study Session — April 26 to 30 (Amsterdam)