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Conventions Administered by WIPO

Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms

COSTA RICA

Accession to the Convention

The Director General of the World Intellectual Property Organization (WIPO) has informed the Governments of the States invited to the Diplomatic Conference on the Protection of Phonograms* that, according to the notification received from the Secretary-General of the United Nations, the Government of the Republic of Costa Rica deposited, on March 1, 1982, its instrument of accession to the Convention for the Protection of Producers of Phonograms

Against Unauthorized Duplication of Their Phonograms.

The Convention will enter into force, with respect to the Republic of Costa Rica, three months after the date of the notification given by the Director General of WIPO, that is, on June 17, 1982.

* Phonograms Notification No. 38, of March 17, 1982.

National Legislation

ITALY

Law

concerning urgent measures against the unlawful copying, reproduction, import, distribution and sale of unauthorized phonographic products

(No. 406, of July 29, 1981) *

Article 1. Any person who unlawfully reproduces for profit-making purposes, by any copying or reproduction process, discs, magnetic tapes or similar carriers, or who, without being involved in the reproduction, places them on the market, stocks them with a view to sale or introduces them into the territory of the State for profit-making purposes, shall be punished with imprisonment for three months to three years and with a fine of 500,000 to 6 million

lire. The penalty of imprisonment shall not be less than six months and the fine not less than 1 million lire if the facts of the case are particularly serious.

Article 2. The sentence pronounced against the offenses provided for in the preceding Article shall include its publication in at least one daily newspaper and in at least one specialized journal.

Article 3. Letter (e) of the first paragraph of Article 171 of Law No. 633, of April 22, 1941, as amended by Law No. 404, of May 5, 1976, is repealed.

* Published in the *Gazzetta Ufficiale*, No. 210, of August 1, 1981. — WIPO translation.

MEXICO

Decree

Amending and Supplementing the Federal Law of Copyright

(of December 30, 1981)*

Article 4. The rights granted to the author of a work by virtue of paragraph (iii) of Article 2 include the right of publication, reproduction, performance, exhibition, adaptation and any public use thereof effected by any means, according to the nature of the work, and in any special manner by the means specified in current international treaties and conventions to which Mexico is a party. Such rights are transmissible by all lawful means.

Article 23. The rights referred to in paragraph (iii) of Article 2 shall remain in force over the following periods:

- (i) the rights shall continue for the life of the author and 50 years after his death.
On expiration of this period, or earlier if the owner of the right dies without heirs, the right to use and exploit the work shall pass into the public domain, subject to the observance of any rights previously acquired by third parties;
- (ii) in the case of posthumous works, the right shall continue for 50 years calculated from the date of first publication;
- (iii) the ownership of the rights in the work of an anonymous author who does not reveal his identity within a period of 50 years calculated from the date of first publication shall pass into the public domain;
- (iv)
- (v) the rights shall continue for a period of 50 years, calculated from the date of publication, in favor of the Federation, the States and the Municipalities, respectively, in the case of works produced in the service of the said bodies, other than laws, regulations, notices and other official measures.

The same protection is granted to the works referred to in the second paragraph of Article 31.

Article 74.

- (a)
- (b)
- (c) the recording shall only give the right to make a single emission. The recording or fixation of any sound and image effected under the conditions aforementioned shall not involve any obligation to make additional payment, other than that requisite for the use of the works.

The provisions of this Article do not apply to cases in which authors or performers have entered into a remunerated agreement, authorizing subsequent emissions;

- (d) advertisers' or other commercial announcements filmed or recorded for distribution by means of any of the communication media may be disseminated for a period of up to six months from the date of their recording. At the end of this period, their public use shall be subject to payment, for each additional period of six months, of a sum equal to that originally agreed, even when the use is made only during fractions of that period, to the composers, performers, arrangers, musicians, singers, actors and speakers who took part in the said recordings. The dissemination of the announcement concerned may not exceed a total time of three years, calculated from the time of recording, without the prior consent of those who took part in it.

Article 82. Actors, singers, musicians, dancers and other persons who act, sing, deliver, declaim, play in or otherwise perform literary or artistic works shall be considered performers.

* Published in the *Diario Oficial*, 1a Sección, of January 11, 1982. — WIPO translation. The amended Federal Law has been published in *Le Droit d'auteur (Copyright)*, 1964, pp. 118 and 133.

Article 84. Performers who take part in any form or medium of communication to the public shall be entitled to receive unrenounceable financial remuneration for the public use of their performances, in accordance with Articles 79 and 80.

When several persons take part in a performance, the remuneration shall be divided between them in such manner as may be agreed. In the absence of agreement, the monies shall be distributed proportionately to the amounts they would receive for their respective performances.

Article 90. The term of protection granted to performers shall be 30 years, calculated from:

- (a) the date of fixation of the recordings or discs;
- (b) the date of performance of unrecorded works;
- (c) the date of transmission by television or radio.

Article 91. The following are excepted from the foregoing provisions:

- (i)
- (ii)
- (iii) any fixation effected within the terms of item (d) of Article 74.

Article 98.

- (i)
- (ii) to collect and pay over to their members, and to foreign authors belonging to the branch, the sums derived from copyright, and which are due to them.

To collect within the country, without any representation being necessary, royalties deriving from the public use in any form of the works of foreign authors, always subject to the handing over of such amounts collected to the foreign authors or to the associations that represent them, as the case may be, according to the principle of reciprocity.

For the collection of the royalties of national authors, such authors shall be required to grant powers individually to the authors' society, should an author fail to collect the royalties due to him within a period of two years, to collect them even without express personal instructions having been given, in which case the society shall notify the author or his successors in title through the Directorate General of Copyright of the Secretariat of Education. Such collections shall be effected by the appropriate authors' society, through the administrative trust provided for in the Law;

- (iii)
- (iv)
- (v)
- (vi)
- (vii)

Transitional Provision

Sole Article. This Decree shall enter into force on the day following its publication in the *Diario Oficial* of the Federation.

General Studies

Copyright in the National Economy

**Some reflections on the basis of a Swedish study
on the economic impact of copyright law**

A. Henry OLSSON *

Correspondence

Letter from Poland

Ewa SZELCHAUZ *

Book Reviews

A Practical Introduction to Copyright, by *Gavin McFarlane*. One volume of XIV-235 pages. McGraw-Hill Book Company (UK) Limited, London, 1982.

This work is, according to the author's preface, "designed for the large number of persons engaged in commerce and industry who will increasingly be affected by copyright." It is, however, not meant to be a practitioner's manual, but rather a presentation, as simple as possible, of both the effect of today's law and the likely form of the anticipated new legislation.

The main source of information concerning the anticipated law is, of course, the Report of the Committee to consider the Law of Copyright and Designs (Whitford Report); the recommendations contained in it are systematically referred to and sometimes quoted. The work is divided into several chapters, each of which dealing with a particular aspect of copyright law, including various matters of current interest such as tape copying of sound recordings, cable diffusion, unauthorized reproduction, etc.

When speaking about possible solutions for photocopying and other forms of reproduction, the author warns against the danger that, if the levies imposed on recording, copying and other equipment look like indirect taxes, it will be felt that copyright owners are simply receiving direct support from the State; and this, he concludes, would merely compromise the independence of creators such as writers and composers.

A separate chapter is devoted to American copyright law, and another one to the impact of the European Economic Community (EEC) in this field. In connection with the latter, the author mentions some dissatisfaction voiced by British lawyers concerning what he calls "the Continental views of copyright" as opposed to the Anglo-Saxon approach. He also refers to criticisms of the "rigid stance" of the EEC Commission.

The book contains another separate chapter dealing with the international protection of copyright. It is, however, regrettable that it follows, instead of preceding, the earlier chapters on sound recordings and broadcasts which include a brief description of the neighboring rights conventions.

Two Appendices appear at the end of the study itself. One is the full text of the Copyright Act, 1956, and the other contains a brief summary of the Green Paper on Copyright Law Reform. An exhaustive index makes reference to various parts of the book easier.

M.S.

Piracy of Phonograms, by *Gillian Davies*. One volume of XII-150 pages. ESC Publishing Limited, Oxford, 1981.

This study was prepared for the Commission of the European Communities. It is largely based on the information supplied to the author by the IFPI National Groups in the European Communities.

The book is divided into five chapters. The first contains the general considerations affecting the problem of piracy in the EEC, including introductory remarks on the record market, the definition of piracy, the rights infringed by it, possible methods of controlling piracy, etc. The second is a comparative study of the incidence of piracy in the States members of the EEC. The third chapter gives a brief description of the international conventions relevant to piracy; it includes (in that order) the Rome and Phonograms Conventions, the Berne Convention, the relevant industrial property conventions, the Draft GATT Agreement on Counterfeit Goods and the resolution adopted by Interpol in 1977. The most valuable legal information is found in the fourth chapter, which deals with the national laws available to combat piracy in each of the States members of the EEC.

The last chapter contains the author's conclusions and proposals for action. It is proposed, *inter alia*, that the Commission should suggest to member States that they extend protection to all phonograms originating in countries party to the Berne Convention and the Universal Copyright Convention — like that has been done in Ireland and the United Kingdom.

This highly topical study was prepared as early as 1980. That is the reason why the latest figures appearing in the tables which follow the text are in most cases those relating to 1978 or 1979. Nevertheless, the book will be a useful source of information and reference to all those who, after the WIPO Worldwide Forum on the Piracy of Sound and Audiovisual Recordings (Geneva, March 1981), wish to carry the message as contained in the resolution adopted by it and to implement such aspects thereof as lie within their competence.

M.S.

Calendar

WIPO Meetings

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

1982

- April 26 to 30 (Geneva) — Berne Union — Working Group on the “domaine public payant”** (convened jointly with Unesco)
- May 3 to 7 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on General Information**
- May 10 to 14 (Vienna) — International Patent Classification (IPC) — Advanced Seminar**
- May 24 to 28 (Geneva) — Nice Union — Committee of Experts**
- June 7 to 11 (Paris) — Berne Union — Committee of Governmental Experts on Problems Arising from the Use of Computers for Access to or the Creation of Works** (convened jointly with Unesco)
- June 7 to 18 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Search Information**
- June 14 to 18 (Geneva) — Development Cooperation — Working Group on the Establishment of a Guide on the Organization of Industrial Property Activities of Enterprises in Developing Countries**
- June 28 to July 2 (Geneva) — Committee of Governmental Experts on Model Provisions for the Protection of Expressions of Folklore** (convened jointly with Unesco)
- September 1 to 3 (Geneva) — Working Group on the Rights of Employed or Salaried Authors** (convened jointly with ILO and Unesco)
- September 6 to 10 (Geneva) — International Patent Cooperation (PCT) Union — Committee for Administrative and Legal Matters**
- September 10 (Geneva) — International Patent Cooperation (PCT) Union — Assembly (Extraordinary Session)**
- September 20 to 23 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Patent Information for Developing Countries**
- September 23 to October 1 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Planning**
- September 23 to October 1 (Geneva) — Permanent Committee on Patent Information (PCPI) — Working Group on Special Questions**
- September 27 to 30 (Geneva) — Permanent Committee for Development Cooperation Related to Industrial Property**
- October 4 to 30 (Geneva) — Revision of the Paris Convention — Diplomatic Conference**
- October 25 to 27 (Paris) — Berne Union — Working Group on Copyright Questions Connected with the Use of Works by Persons with Defective Hearing or Sight** (convened jointly with Unesco)
- November 8 to 12 (Geneva) — Working Group on Model Contracts for Licensing or Transferring Copyright** (convened jointly with Unesco)
- November 22 to 26 (Geneva) — Governing Bodies (WIPO Coordination Committee; Executive Committees of the Paris and Berne Unions)**
- November 29 to December 3 (Geneva) — Permanent Committee on Patent Information (PCPI) and PCT Committee for Technical Cooperation (PCT/CTC)**
- December 6 to 10 (Geneva) — International Patent Classification (IPC) — Committee of Experts**
- December 6 to 10 (Paris) — Berne Union and Universal Copyright Convention — Working Group on the Formulation of Guiding Principles Covering the Problems Posed by the Practical Implementation of the Licensing Procedures for Translation and Reproduction under the Copyright Conventions** (convened jointly with Unesco)
- December 13 to 17 (Paris) — Berne Union, Universal Convention and Rome Convention — Subcommittees of the Executive Committee of the Berne Union, of the Intergovernmental Copyright Committee and of the Intergovernmental Committee of the Rome Convention, respectively, on Copyright and Neighboring Rights Problems in the Field of Cable Television** (convened jointly with ILO and Unesco)

UPOV Meetings

1982

- May 11 to 13 (Salerno) — Technical Working Party for Vegetables
- May 18 (Madrid) — Technical Working Party for Agricultural Crops — Subgroup
- May 19 to 21 (Madrid) — Technical Working Party for Agricultural Crops
- September 28 (Faversham) — Technical Working Party for Fruit Crops — Subgroup
- September 29 to October 1 (Faversham) — Technical Working Party for Fruit Crops
- October 5 to 7 (Cambridge) — Technical Working Party for Ornamental Plants and Forest Trees
- October 12 (Geneva) — Consultative Committee
- October 13 to 15 (Geneva) — Council
- November 15 and 16 (Geneva) — Administrative and Legal Committee
- November 17 (Geneva) — Information Meeting with International Non-Governmental Organizations
- November 18 and 19 (Geneva) — Technical Committee

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

1982

Intergovernmental Organizations

Council of Europe

- Committee of Legal Experts in the Media Field — October 12 to 15 (Strasbourg)

Non-Governmental Organizations

International Confederation of Societies of Authors and Composers (CISAC)

- Legal and Legislation Committee — May 10 to 12 (Vienna)

- Congress — October 3 to 8 (Rome)

International Federation of Actors (FIA)

- Congress — September 27 to October 1 (Paris)

International Federation of Library Associations and Institutions (IFLA)

- General Conference — August 23 to 28 (Montreal)

International Federation of Musicians (FIM)

- Seminar on the administration of performers' rights — May 3 and 4 (Geneva)

- Executive Committee — May 5 to 7 (Geneva)

International Federation of Phonogram and Videogram Producers (IFPI)

- Board, Council and General Meeting — May 31 to June 3 (Lisbon)

International Literary and Artistic Association (ALAI)

- Study Session — May 16 to 20 (Amsterdam)

