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World Intellectual Property Organization (WIPO)

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SINGAPORE

- The Copyright Act 1987 (No. 2 of 1987) (*Sections 118 to 245 and the Schedule*) Text 1-01

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WIPO Meetings

Governing Bodies of WIPO and the Unions Administered by WIPO

Eighteenth Series of Meetings

(Geneva, September 21 to 30, 1987)

NOTE*

The Governing Bodies of WIPO and the Unions administered by WIPO held their eighteenth series of meetings in Geneva from September 21 to 30, 1987. Delegations from 88 States, 17 intergovernmental organizations and 11 international non-governmental organizations participated in the meetings.

The following 23 Governing Bodies held sessions:

- 1 — 3 WIPO General Assembly, Conference and Coordination Committee;
- 4 — 6 Paris Union Assembly, Conference of Representatives and Executive Committee;
- 7 — 9 Berne Union Assembly, Conference of Representatives and Executive Committee;
- 10 & 11 Madrid Union Assembly and Committee of Directors;
- 12 & 13 Hague Union Assembly and Conference of Representatives;
- 14 & 15 Nice Union Assembly and Conference of Representatives;
- 16 & 17 Lisbon Union Assembly and Council;
 - 18 Locarno Union Assembly;
 - 19 IPC [International Patent Classification] Union Assembly;
 - 20 PCT [Patent Cooperation Treaty] Union Assembly;
 - 21 TRT [Trademark Registration Treaty] Union Assembly;
 - 22 Budapest Union Assembly;
 - 23 Vienna Union Assembly.

The Director General greeted the representatives of the States that, since the 1986 sessions of the Governing Bodies, had acceded to various treaties: to the WIPO Convention, Lebanon and Paraguay; to the Hague Agreement, Benin and Italy; to the Patent Cooperation Treaty (PCT), Benin; to the

Budapest Treaty, Australia and the Netherlands; to the Rome Convention, the Dominican Republic and France; to the Geneva (Phonograms) Convention, the Republic of Korea. He also expressed pleasure that, during the period in question, and as far as the PCT is concerned, Japan had withdrawn its declaration concerning the time limit for furnishing the translation of the international application and the United States of America had withdrawn its reservation to Chapter II.

The main agenda items and the main decisions covered the following points:

Activities Covering the Period September 1985 to June 1987. The reports on those activities were considered and accepted. They reflect the work of the International Bureau during the said period. Most of the delegations which spoke made special reference to the efforts of the International Bureau in the field of development cooperation for the benefit of developing countries. The view was expressed that such activities enabled the intellectual property systems in those countries to play a significant role in their social, economic and technological development.

Program and Budget for the 1988-89 Biennium. The program and budget was adopted.

The program and budget differentiates between Program Unions and Registration Unions. The services rendered by the International Bureau for the Program Unions (Paris Union, Berne Union, IPC Union, Nice Union, Locarno Union, Vienna Union) are funded mainly by contributions from the member States. The services rendered for the Registration Unions (PCT Union, Madrid Union, Hague Union) are funded mainly by fees payable by owners of inventions, trademarks and industrial designs.

The program and budget for 1988-89 foresees the same level of activity in the *Program Unions*,

* Prepared by the International Bureau.

with the same contributions from member States as in 1986-87. Within those levels, the program and budget includes an increase of 13.2% for *development cooperation activities*. A part of those activities will be financed also from extrabudgetary resources, such as the United Nations Development Programme (UNDP) and bilateral trust funds. As compared with previous years, there will be more fellowships; more of the training courses, seminars and workshops will be more specialized, will expand into new topics and will be held in developing countries, and more of them will be regional; the number of experts and consultants coming from developing countries and advising developing countries will also increase; travel expenses of representatives of more developing countries to the sessions of the Permanent Committees for Development Cooperation Related to Industrial Property and Copyright will be borne by WIPO.

As far as the *revision of the Paris Convention for the Protection of Industrial Property* is concerned, the Assembly of the Paris Union decided that the three spokesmen and the representative of China will meet in Geneva not later than April 1988 to decide the date and program of the next consultative meeting on the revision of the Paris Convention, whereas, in September 1988, a progress report will be made to the Paris Union Executive Committee and, if the spokesmen agree that a decision on the date of the continuation of the diplomatic conference can be taken already in September 1988, the Paris Union Assembly will be convened in extraordinary session in September 1988.

As far as the *Diplomatic Conference for the Conclusion of a Treaty on the Protection of Intellectual Property in Respect of Integrated Circuits* is concerned, it was decided that the International Bureau would prepare, in consultation with experts from developing countries, specific studies and analyses dealing in particular with legal matters, would distribute them to the governments of all States members of WIPO or the Paris Union for comments, and would convene a consultative meeting of experts from developing countries to review and evaluate the comments received from governments. A meeting of all States members of WIPO or the Paris Union at the end of May or the beginning of June 1988 would review the progress of the preparatory work. The International Bureau would convene the fourth session of the Committee of Experts and a preparatory meeting to prepare the Diplomatic Conference. After all the above steps had been accomplished and based on the outcome of the meeting of the Committee of Experts and of the preparatory meeting, the Director General would convene a diplomatic conference during the biennium 1988-89, if possible in Washington, otherwise in Geneva, for the purpose of concluding

a treaty on the protection of intellectual property in respect of integrated circuits.

The many other *program activities* for the next biennium include the following: the continuation of collecting and disseminating information on intellectual property; the further development of the patent, trademark and industrial design classification systems; the organization of meetings of experts to work out norms in the fields of patents for inventions, trademarks and literary and artistic works (those norms to take the form of guidelines or model provisions for national or regional legislation and, in respect of questions relating to patents and trademarks for which the conclusion of a multilateral treaty has serious chances of being successful, to take the form of draft treaties); the organization of meetings on measures to combat counterfeiting and piracy, on the impact of emerging technologies (in particular biotechnology) on the law of intellectual property, and on the possible establishment of an international register of audiovisual works.

As regards the *rolé of WIPO in the Uruguay Round of Multilateral Trade Negotiations of GATT* (General Agreement on Tariffs and Trade), the General Assembly of WIPO agreed that the Director General should accept the invitation extended by GATT to be represented in the meetings of GATT's "Negotiating Group on Trade-related Aspects of Intellectual Property Rights, Including Trade in Counterfeit Goods."

As far as the *PCPI (Permanent Committee on Patent Information)* is concerned, it was decided that that Committee would deal, in future, not only with patent documentation and information but also with trademark and industrial design documentation and information. Consequently, the name of the Permanent Committee has been changed to Permanent Committee on Industrial Property Information (PCIPI). Measures were decided upon that should enable the heads of patent offices to meet at least once every two years to direct personally the work of the new Permanent Committee.

In the *Registration Unions*, the budget takes into account the expected increase in activities of the International Bureau because of the expected increases in the number of international patent applications and demands for international preliminary examinations under the Patent Cooperation Treaty (PCT), in the number of international trademark registrations and renewals under the Madrid Agreement and in the number of international industrial design deposits and renewals under the Hague Agreement.

As regards the *Diplomatic Conference for the adoption of two protocols to the Madrid Agreement Concerning the International Registration of Marks*,

the Assembly of the Madrid Union decided that that Diplomatic Conference would be convened in the first half of 1989 and that a Preparatory Committee would be convened in the second half of 1988.

The Diplomatic Conference is expected to adopt two Protocols: one would modify the Madrid Agreement so as to make it acceptable to at least the four States members of the European Communities which are not members of the Madrid Union (i.e., Denmark, Greece, Ireland and the United Kingdom), whereas the other would establish a link between the Madrid system and the future (European) Community Trade Mark system, enabling the simultaneous use of the two systems.

Contributions. It was decided that a study be carried out concerning the possibility of modifying the present *classes of contributions*, so that the share of the (mainly developing) countries that are paying the least (because they are in Class VII) could become smaller. That study will be prepared by the Director General and will, before being presented to the Governing Bodies, be submitted to the Budget Committee in 1989.

The International Bureau was authorized to accept *payments towards contributions in local currency* from developing countries having a non-convertible currency, up to the amount required by WIPO for the payment of local expenses in the country concerned.

New Observers. The Governing Bodies, each as far as it is concerned, accorded *observer status* to the following organizations which had applied for such status in the recent past: Arab Society for the Protection of Industrial Property (ASPIP), European Council of Chemical Manufacturers' Federations (CEFIC), European Federation of Pharmaceutical Industries' Associations (EFPIA), International Anticounterfeiting Coalition, Inc. (IACC), International Group of National Associations of Manufacturers of Agrochemical Products (GI-FAP), Union of African Journalists (UAJ), World Federation of Advertisers (WFA).

Election of the Members of the WIPO Coordination Committee. The members of the WIPO Coordination Committee were elected. Their mandate commenced on October 1, 1987, and will end on October 4, 1989 (the names of members of the Paris Union Executive Committee are followed by "(P)," the names of members of the Berne Union Executive Committee are followed by "(B)," the names of *ad hoc* members elected by the WIPO Conference are followed by "(W)"; Switzerland is an *ex officio* member): Algeria (P), Argentina (P), Australia (P), Austria (B), Bangladesh (W), Brazil

(P), Bulgaria (B), Cameroon (B), Canada (B), Chile (B), China (P), Colombia (W), Côte d'Ivoire (B), Cuba (P), Czechoslovakia (P), Egypt (P), France (P), German Democratic Republic (B), Germany (Federal Republic of) (P), Hungary (P), India (B), Indonesia (P), Italy (B), Jamaica (W), Japan (P), Kenya (P), Mexico (P), Morocco (B), Netherlands (B), Nicaragua (W), Pakistan (B), Philippines (P), Poland (B), Republic of Korea (P), Saudi Arabia (W), Senegal (B), Soviet Union (P), Spain (P), Sweden (B), Switzerland, Syria (P), Turkey (P), United Kingdom (B), United Republic of Tanzania (P), United States of America (P), Uruguay (B), Venezuela (B) (47).

LIST OF PARTICIPANTS**

I. States

Afghanistan: A.M. Shoogufan.

Algeria^{1, 2, 3, 4, 6, 10, 14, 16}: A. Dahmouche; D. Aboudi; O. Bouhnik.

Argentina^{1, 2, 3, 4, 6, 7}: L.H. Tellamanti; N. Fasano; D. Chuburu.

Australia^{1, 2, 3, 4, 6, 7, 14, 19, 20, 22}: E.M. Haddrick; M.P.F. Smith.

Austria^{1, 2, 3, 4, 6, 7, 10, 14, 19, 20, 22}: O. Leberl; G. Mayer-Dolliner; E. Kubesch; T. Wallentin.

Bangladesh²: M. Talukdar.

Barbados^{1, 2, 4, 7, 14, 20}: S.R. Moore.

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

¹ WIPO General Assembly.

² WIPO Conference.

³ WIPO Coordination Committee.

⁴ Paris Union Assembly.

⁵ Paris Union Conference of Representatives.

⁶ Paris Union Executive Committee.

⁷ Berne Union Assembly.

⁸ Berne Union Conference of Representatives.

⁹ Berne Union Executive Committee.

¹⁰ Madrid Union Assembly.

¹¹ Madrid Union Committee of Directors.

¹² Hague Union Assembly.

¹³ Hague Union Conference of Representatives.

¹⁴ Nice Union Assembly.

¹⁵ Nice Union Conference of Representatives.

¹⁶ Lisbon Union Assembly.

¹⁷ Lisbon Union Council.

¹⁸ Locarno Union Assembly.

¹⁹ IPC [International Patent Classification] Union Assembly.

²⁰ PCT [Patent Cooperation Treaty] Union Assembly.

²¹ TRT [Trademark Registration Treaty] Union Assembly.

²² Budapest Union Assembly.

²³ Vienna Union Assembly.

- Belgium**^{1, 2, 4, 7, 10, 12, 14, 19, 20, 22}: L. Verjus; L. Wuyts; P. Steel.
- Brazil**^{1, 2, 3, 4, 6, 7, 19, 20}: J.M.V. de Sousa; M.E. do Nascimento; R. Stille; P.R. de Almeida.
- Bulgaria**^{1, 2, 3, 4, 6, 7, 10, 16, 20, 22}: K. Iliev; Y. Markova; O. Delcv; S. Boyadjieva; G. Sarakinov.
- Byelorussian SSR**²: A. Sytchev.
- Cameroon**^{1, 2, 4, 7, 20}: F.-X. Ngoubeyou; W. Eyambe.
- Canada**^{1, 2, 3, 4, 7, 9}: J.H.A. Gariépy; D. Watters; M.J. Piattelli; J.S. Gero.
- Chile**^{1, 2, 3, 7, 9}: L. Escobar Ccrda; L. Gillet Bebin; R. Sateler.
- Cbina**^{1, 2, 3, 4, 6}: Ge Bo; Tao Junying; Feng Cui; Zhang Zhaoqi.
- Colombia**^{2, 3}: H. Charry-Samper; L.A. Luna; A. Gamboa Alder.
- Costa Rica**^{1, 2, 7}: R. Brown Castro.
- Côte d'Ivoire**^{1, 2, 3, 4, 7, 9}: A. Traorc; K.F. Ekra.
- Cuba**^{1, 2, 3, 4, 6, 16}: M. Fernández Finalé; H. Rivero Rosario; M. Jiménez Aday.
- Czechoslovakia**^{1, 2, 3, 4, 7, 9, 10, 14, 16, 18, 19}: M. Bělohlávek; J. Prošek.
- Democratic People's Republic of Korea**^{1, 2, 4, 10, 20}: Lyo Song Gyn; Kim Yu Chol; Hong Yong; Pak Dok Hun.
- Denmark**^{1, 2, 3, 4, 6, 7, 14, 18, 19, 20, 22}: P.L. Thoft; L. Østerborg; C. Boysen Schmidt.
- Egypt**^{1, 2, 3, 4, 6, 7, 10, 13, 19}: N. El Arabi; W.Z. Kamil; W.M. Abdel-Nasser.
- Finland**^{1, 2, 4, 7, 14, 18, 19, 20, 22}: M. Enäjärvi; M. Oksanen; R. Resch.
- France**^{1, 2, 3, 4, 7, 9, 10, 12, 14, 16, 18, 19, 20, 22, 23}: X. du Cauzé de Nazelle; J.-C. Combaldieu; M. Guerrini; M. Hiance; E. Bérard; H. Ladsous; P. Dardelet; S. Sayanoff-Lévy; M.-C. Rault; M. Bottioli.
- Gabon**^{1, 2, 4, 7, 16, 20, 21}: M. Nziengui.
- German Democratic Republic**^{1, 2, 3, 4, 7, 9, 10, 13, 14, 18, 19}: J. Hemmerling; E. Kubillus; D. Schack; M. Moench; K. Stoecker.
- Germany (Federal Republic of)**^{1, 2, 3, 4, 6, 7, 10, 12, 14, 19, 20, 22}: A. Krieger; A. von Mühlendahl; E. Merz; G. Wasserberg; E. Biskup; M. Fernau; B. Bockmair; E. Steup.
- Gbana**^{1, 2, 4}: A.Y. Aggrey-Orleans; M. Abdullah.
- Greece**^{1, 2, 4, 7}: A. Cambitsis; P. Canglaris.
- Holy See**^{1, 2, 4, 7, 13}: O. Roulet.
- Honduras**²: N. Valenzuela; G. de Ritter.
- Hungary**^{1, 2, 3, 4, 7, 9, 10, 12, 14, 16, 18, 20, 22}: Gy. Pusztai; G. Boytha; J. Bobrovsky.
- Iceland**^{1, 2, 4, 7}: S.H. Gunnlaugsson; K.F. Arnason.
- India**^{1, 2, 3, 7, 9}: A. Malhotra; K. Abrol.
- Indonesia**^{1, 2, 3, 4, 6, 13}: H.A. Wayarabi; B. Prayitno; I. Cotan.
- Iran (Islamic Republic of)**⁵: A. Hashemi; A. Faridi-Araghi; H. Salehi; M. Karimpour Tehenidjani; H. Ronaghi.
- Iraq**^{1, 2, 4}: R.A. Abtan.
- Ireland**^{1, 2, 4, 7, 14, 18, 19}: S. Fitzpatrick.
- Israel**^{1, 2, 4, 7, 14, 16, 19}: R. Walden.
- Italy**^{1, 2, 3, 4, 6, 7, 10, 12, 14, 16, 18, 19, 20, 22}: M.G. Fortini; M.G. Del Gallo Rossoni; G. Aversa.
- Jamaica**²: R.A. Smith.
- Japan**^{1, 2, 3, 4, 6, 7, 19, 20, 22}: K. Ogawa; T. Yoshida; M. Nakamura; T. Koda; T. Hirai; Y. Masuda; M. Fukasawa; H. Takahashi; K. Sato.
- Kenya**^{1, 2, 4}: J.N. King'Arui; H.B.N. Gicheru.
- Lebanon**^{1, 2, 4, 8, 15}: H. Hamdane.
- Libya**^{1, 2, 4, 7}: G.I. Ferjani.
- Luxembourg**^{1, 2, 4, 7, 10, 12, 14, 19, 20, 23}: F. Schlessler.
- Madagascar**^{4, 8, 20}: P. Verdoux.
- Malawi**^{1, 2, 4, 20}: I.J. Mtambo.
- Mexico**^{1, 2, 3, 4, 7, 9, 17}: M. Tello; J. de Villafranca; A.L. Hill; M.A. Arce; A. Fuchs Ojeda.
- Monaco**^{1, 2, 4, 7, 10, 12, 14, 19, 20}: J.-P. Campana.
- Mongolia**^{1, 2, 4, 10}: M. Dash.
- Morocco**^{1, 2, 3, 4, 7, 9, 10, 13, 14}: M.S. Abderrazik; A. Bendaoud.
- Netherlands**^{1, 2, 3, 4, 7, 9, 10, 12, 14, 18, 19, 20, 22, 23}: M.A.J. Engels; J. Nicaise; E. Lukács.
- New Zealand**^{1, 2, 4, 8}: A.H. Macey.
- Nicaragua**^{2, 3}: G.-A. Vargas Ascobar; M. Castellón Duarte.
- Nigeria**^{3, 5, 6}: J. Oniwon.
- Norway**^{1, 2, 4, 7, 14, 18, 19, 20, 22}: J. Smith.
- Pakistan**^{1, 2, 7}: M. Aslam Khan.
- Panama**²: M. Saavedra Polo.
- Paraguay**²: L. Gonzáles Arias.
- Peru**²: J.C. Mariátegui; R. Saif.
- Philippines**^{1, 2, 3, 4, 6, 7, 22}: R. de Perio-Santos; D.P. Menez; A.L. Catubig.
- Poland**^{1, 2, 3, 4, 6, 8}: J. Szomański; A. Kowalski; K. Paturej.
- Portugal**^{1, 2, 4, 7, 11, 14, 17, 19}: A. Costa Lobo; J. Mota Maia; J.A. Lourenço; R. Serrão; M.H. Alves Paías; M. Jordão.

Republic of Korea^{1, 2, 4, 20}: S.-M. Cha; K.-Y. Jhung; W.-S. Yon; T.-C. Choi; M.-S. Ahn.

Rwanda^{1, 2, 4, 7}: A. Sebudanga; B. Murekesi.

Saudi Arabia^{2, 3}: A.S. Alyoussef.

Senegal^{1, 2, 3, 4, 7, 9, 12, 20}: A. Sène; S.C. Konaté; S.M. Sy.

Soviet Union^{1, 2, 3, 4, 6, 10, 14, 18, 19, 20, 21, 22}: I.S. Nayashkov; N.V. Mironov; V.N. Roslov; E. Buryak; S.A. Gorlenko; V. Blatov.

Spain^{1, 2, 4, 7, 10, 13, 14, 18, 19, 22}: J. Delicado Montero-Rios; E.J. Rúa Benito; A. Casado Cervino; L. Martínez Garnica; M. Pérez del Arco.

Sri Lanka^{1, 2, 4, 7, 20}: D.E.N. Rodrigo.

Sudan^{1, 2, 4, 10, 20}: A.M.A. Hassan; O.I. El-Turabi.

Sweden^{1, 2, 3, 4, 7, 9, 14, 18, 19, 20, 22, 23}: S. Niklasson; A. Tannerfeldt; A.-K. Wegmann; K. Hökborg.

Switzerland^{1, 2, 3, 4, 6, 7, 9, 10, 12, 14, 18, 19, 20, 22}: J.-L. Comte; R. Grossenbacher; Tran-Thi Thu-Lang; D. Feldmeyer.

Syria³: N. Chaalan.

Thailand⁷: S. Kanchanalai; Y. Phuangrach; C. Karnjanavijaya; H. Prongplod; S. Aswasansophon; S. Devahastin; B. Limschoon.

Tonisia^{1, 2, 3, 4, 7, 9, 11, 13, 15, 16, 23}: Y. Mokaddem; H. Boufares; M. Baati; M. Blanco.

Turkey^{1, 2, 3, 4, 8, 9}: M. Çetin; A. Algan; L. Ülker.

Ukrainian SSR⁷: A. Ozadovski.

United Kingdom^{1, 2, 3, 4, 7, 9, 14, 19, 20, 22}: P.J. Cooper; V. Tarnofsky; A. Sugden; P. Redding; T.J. David; A.G. Toothe; F.W. Wheeler.

United Republic of Tanzania^{1, 2, 3, 4, 6}: E.E.E. Mtango; K.J. Suedi.

United States of America^{1, 2, 3, 4, 6, 14, 19, 20, 22}: D.H. Quigg; M.K. Kirk; H.J. Winter; R. Oman; L.J. Schroeder; P.E. Behnke; J.P. Richardson.

Uruguay^{1, 2, 3, 4, 6, 7}: R. González-Arenas.

Venezuela^{1, 2, 3, 7, 9}: H.C. Azócar; L. Niño.

Viet Nam^{1, 2, 4, 10, 13}: Nguyen Van Vien; Le Dinh Can; Ngo Ding Kha.

Yugoslavia^{1, 2, 3, 4, 6, 7, 10, 14, 18}: B. Žarković; R. Těšić; M. Manigodić; G. Fejić.

Zambia^{1, 2, 4}: A.R. Zikonda.

II. Intergovernmental Organizations

United Nations (UN): T.S. Zoupanos; R. Dhanjee; E. Bonev; G. Pérez-Arguello. **International Labour Organization (ILO)**: C. Privat. **Food and Agriculture Organization of the United Nations (FAO)**: J.C. Vignaud; A. Purcell.

United Nations Industrial Development Organization (UNIDO): H. Mehdi; G. Papuli. **United Nations Educational, Scientific and Cultural Organization (UNESCO)**: E. Guerassimov. **International Monetary Fund (IMF)**: C. Sanson; R.P. Kroneoberg. **General Agreement on Tariffs and Trade (GATT)**: A. Otten. **African Regional Industrial Property Organization (ARIPO)**: J.H. Ntabgoba. **Benelux Designs Office (BBDM)**: P. Rome. **Benelux Trademark Office (BBM)**: P. Rome. **Commission of the European Communities (CEC)**: Tran Van-Thinh; B. Schwab; M. Langer; C. Bail. **Commonwealth Secretariat**: B. Jayal. **Council for Mutual Economic Assistance (CMEA)**: I.V. Tcherviakov. **European Free Trade Association (EFTA)**: S. Norberg; G. Aschenbrenner; L. Olafsdottir. **European Patent Organisation (EPO)**: P. Braendli; G.D. Kolle; V. Ahmann. **Interim Committee for the Community Patent**: H.W. Kunhardt; J. Huber. **Organization of African Unity (OAU)**: N. Hached; M.H. Tunis.

III. International Non-Governmental Organizations

European Association of Industries of Branded Products (AIM): G. Kunze. **International Association for the Protection of Industrial Property (AIPPI)**: G.E. Kirker. **International Chamber of Commerce (ICC)**: J.M.W. Buraas; S. Vidal-Naquet. **International Confederation of Free Trade Unions (ICFTU)**: I. Robadey. **International Federation of Film Producers Associations (FIAPF)**: A. Brisson. **International Federation of Industrial Property Attorneys (FICPI)**: K. Raffinsoe. **International Federation of Phonogram and Videogram Producers (IFPI)**: E. Thompson. **International Organization for Standardization (ISO)**: J. Blanc. **International Secretariat for Arts, Mass Media and Entertainment Trade Unions (ISETU)**: I. Robadey. **The United States Trademark Association (USTA)**: R.S. Kareken. **European Broadcasting Union (EBU)**: M. Burnett.

IV. Officers

WIPO General Assembly

Chairman: J. de Villafranca (Mexico). *Vice-Chairmen*: J.H.A. Gariépy (Canada); J. Hemmerling (German Democratic Republic).

WIPO Conference

Chairman: S. Niklasson (Sweden). *Vice-Chairmen*: Ge Bo (China); A. Ozadovski (Ukrainian SSR).

WIPO Coordination Committee

Chairman: J.-L. Comte (Switzerland). *Vice-Chairmen*: W.Z. Kamil (Egypt); M. Bělohávek (Czechoslovakia).

Paris Union Assembly

Chairman: I.S. Nayashkov (Soviet Union). *Vice-Chairmen*: P.L. Thoft (Denmark); M. Abdullah (Ghana).

Paris Union Conference of Representatives

Chairman: J. Oniwon (Nigeria). *Vice-Chairmen*: A. Hashemi (Iran (Islamic Republic of)); N. Chaalan (Syria).

Paris Union Executive Committee

Chairman: K. Ogawa (Japan). *Vice-Chairmen:* J. Szomański (Poland); R. González-Arenas (Uruguay).

Berne Union Assembly

Chairman: A. Malhotra (India). *Vice-Chairmen:* L. Martínez Garnica (Spain); G. Boytha (Hungary).

Berne Union Conference of Representatives

Chairman: J. Szomański (Poland). *Vice-Chairmen:* P. Verdoux (Madagascar); M. Çetin (Turkey).

Berne Union Executive Committee

Chairman: V. Tarnofsky (United Kingdom). *Vice-Chairmen:* J. Hemmerling (German Democratic Republic); H.C. Azócar (Venezuela).

Madrid Union Assembly

Chairman: J.-C. Combaldieu (France). *Vice-Chairmen:* M. Dash (Mongolia); O.I. El-Turabi (Sudan).

Madrid Union Committee of Directors

Chairman: J. Mota Maia (Portugal). *Vice-Chairmen:* ... (Gabon); ... (...).

Hague Union Assembly

Chairman: A. Sène (Senegal). *Vice-Chairmen:* L. Verjus (Belgium); ... (Suriname).

Hague Union Conference of Representatives

Chairman: H.A. Wayarabi (Indonesia). *Vice-Chairmen:* W.Z. Kamil (Egypt); J. Hemmerling (German Democratic Republic).

Nice Union Assembly

Chairman: J. Mota Maia (Portugal). *Vice-Chairmen:* A. Dahmouche (Algeria); I.S. Nayashkov (Soviet Union).

Nice Union Conference of Representatives

Chairman: Y. Mokaddem (Tunisia). *Vice-Chairman:* H. Hamdane (Lebanon).

Lisbon Union Assembly

Chairman: M. Fernández Finalé (Cuba). *Vice-Chairmen:* K. Iliev (Bulgaria); J.-C. Combaldieu (France).

Lisbon Union Council

Chairman: ... (Haiti). *Vice-Chairmen:* J. de Villafranca (Mexico); J. Mota Maia (Portugal).

Locarno Union Assembly

Chairman: M.G. Del Gallo Rossoni (Italy). *Vice-Chairmen:* J. Smith (Norway); B. Žarković (Yugoslavia).

IPC [International Patent Classification] Union Assembly

Chairman: J. Prošek (Czechoslovakia). *Vice-Chairmen:* E.M. Haddrick (Australia); W.Z. Kamil (Egypt).

PCT [Patent Cooperation Treaty] Union Assembly

Chairman: D.H. Quigg (United States of America). *Vice-Chairmen:* J.M.V. de Sousa (Brazil); K. Iliev (Bulgaria).

TRT [Trademark Registration Treaty] Union Assembly

Chairman: ... (Togo). *Vice-Chairmen:* ... (Burkina Faso); I.S. Nayashkov (Soviet Union).

Budapest Union Assembly

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V. International Bureau of WIPO

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Works of Applied Art

Preparatory Document for and Report of the WIPO/Unesco Committee of Governmental Experts

(Geneva, October 5 to 9, 1987)

Editor's Note. What is published in the following on this Committee of Experts consists of the text of the preparatory document (hereinafter referred to as "the memorandum of the Secretariats") that the International Bureau of WIPO and the Secretariat of Unesco have prepared for the Committee of Experts and the report on the discussions and conclusions of the Committee of Experts (hereinafter referred to as "the report of the Committee of Experts").

The memorandum of the Secretariats is printed in Roman characters (the "principles" in bold type), whereas the report of the Committee of Experts is printed in italics.

The memorandum of the Secretariats was published on July 13, 1987, under the title "Questions Concerning the Protection of Works of Applied Art"; it has the document number UNESCO/WIPO/CGE/AAR/3.

The report of the Committee of Experts was adopted by the Committee of Experts on October 8, 1987; it has the document number UNESCO/WIPO/CGE/AAR/4.

The paragraphs in both documents have numbers. Each paragraph number of the report of the Committee of Experts is, in the following, preceded by the word "Report," so as to make the distinction between the two sets of paragraphs easier.

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Introduction

1. The Committee of Governmental Experts for which the present document has been prepared is being convened by virtue of decisions made by the Governing Bodies of Unesco and WIPO responsible for establishing the programs of the two Organizations (see in particular, as far as Unesco is concerned, Approved Program and Budget for 1986–1987 (23 C/5 Approved), paragraph 15115, and as far as WIPO is concerned, document AB/XVI/2, Annex A, item PRG.04(5) and document AB/XVI/23, paragraph 105).

2. Those decisions provide for a new approach regarding copyright questions of topical interest in the 1986–1987 biennium. Whereas the discussions in the 1984–1985 biennium concentrated on the *new uses* (cable television, private copying, rental and lending, direct broadcast satellites, etc.) affecting the owners or other beneficiaries of copyright and the so-called neighboring rights, the specific questions to be discussed in the 1986–1987 biennium are grouped according to the main *categories of works*. In connection with each category, all the various uses of works of that category, and the interests of all the various owners and beneficiaries of copyright in such works are considered. Virtually all main categories of works will be covered, so that, by the end of the biennium, a global review will have been carried out of the current situation in all the fields of copyright.

3. According to the decisions mentioned above, the Secretariats of Unesco and WIPO have to prepare, convene and service meetings of committees of governmental experts on the following eight categories of works: printed word, audiovisual works, phonograms, works of visual art, works of architecture, works of applied art, dramatic and choreographic works, musical works.

4. The Committee of Governmental Experts, for which the present document has been prepared, is invited to deal with works of applied art.

5. The purpose of this document is to summarize and discuss the various copyright issues in relation to works of applied art for the purpose of arriving at certain "principles" which, together with the comments, could serve as a guidance for governments when they have to deal with those issues. It should be stressed that the principles—neither as proposed nor as they might emerge as the result of the deliberations of the Committee of Governmental Experts—have or will have any binding force on anyone. They are merely intended to indicate directions which seem to be reasonable in the search of solutions which, by safeguarding the rights of the authors and other holders of rights in works of applied art, give them a fair treatment and promote creative activity. At the same time, the proposed solutions should be of a nature that facilitates, from both the creators' and the users' viewpoint, the use of protected works.

6. In the case of previous meetings of committees of governmental experts, mentioned in paragraph 3 above, the notions of the categories of works concerned, were

defined in general at the beginning of the working documents prepared for those meetings. It was logical to do so because in that way the notions used in the documents were clear from the outset. At the same time, providing such definitions was a relatively simple task because the definition of those categories of works did not raise any particular difficulties.

7. In respect of works of applied art, one of the most controversial and most widely discussed questions is just the definition of those works in relation to, on the one hand, works of fine art and, on the other hand, industrial designs protected by special design laws.

8. Therefore, in this document, first only an interim definition is offered—as a working thesis—and the notion of works of applied art will only be defined after a more thorough analysis of the questions involved.

9. The WIPO Glossary of Terms of the Law of Copyright and Neighboring Rights defines a work of applied art as "an artistic work applied to objects for practical use, whether handicraft or works produced on an industrial scale." This definition sets out the two important elements in the context of such works, viz. that they should be "artistic" and that these artistic works are applied on objects "for practical use." As far as such objects are produced on industrial scale, works of applied art may also qualify as industrial designs. Such designs are in the same Glossary defined as meaning: "typical features of patterns, ornaments and shapes applied to industrial products which give them a particular appearance in the finished article that appeals to the eye."

Report 1. In pursuance of the decisions adopted by the General Conference of the United Nations Educational, Scientific and Cultural Organization (UNESCO) at its twenty-third session and by the Governing Bodies of the World Intellectual Property Organization (WIPO) at their fifteenth series of meetings in October 1985, the Directors General of Unesco and WIPO jointly convened a Committee of Governmental Experts on Works of Applied Art at the headquarters of WIPO in Geneva from October 5 to 9, 1987.

Report 2. The purpose of the meeting was to discuss the various copyright issues arising in relation to works of applied art with a view to devising certain "principles" which, together with comments, could afford guidance to governments when they had to deal with those issues.

Report 3. The principles have no binding force and their purpose is merely to indicate directions that seem reasonable in the search for solutions which, by safeguarding the rights of authors and other owners of rights in works of applied art, give them fair treatment and promote creative activity.

Report 4. Experts from the following 20 States attended the meeting: Australia, Canada, Denmark, Finland, France, Germany (Federal Republic of), Guinea, Hungary, India, Italy, Japan, Jordan, Mexico, Netherlands, Panama, Republic of Korea, Soviet Union, Sweden, United States of America, Uruguay.

Report 5. Observers from three intergovernmental organizations, namely the Commission of the European Communities (CEC), the Intergovernmental Bureau for Informatics (IBI) and the League of Arab States (LAS), and from five international non-governmental organizations, namely the International Confederation of Free Trade Unions (ICFTU), the International Literary and Artistic Association (ALAI), the International Secretariat for Arts, Mass Media and Entertainment Trade Unions (ISETU/FIET), the International Union of Architects (IUA), and the World Crafts Council (WCC), participated in the meeting.

Report 6. The list of participants follows this report.

Report 7. Mr. Henry Olsson, Director, Copyright and Public Information Department of WIPO, opened the meeting and welcomed the participants on behalf of WIPO and Unesco.

Report 8. Mr. György Pálos (Hungary) was unanimously elected Chairman of the meeting.

Report 9. The Committee adopted the Rules of Procedure contained in document UNESCO/WIPO/CGE/AAR/2. It was decided that the Committee should elect two Vice-Chairmen and that the tasks of the Rapporteur should be fulfilled by the Secretariats. It was also agreed that, in accordance with the usual practice in meetings such as the present one, the report would be available only in English and French.

Report 10. Mr. Ian Govey (Australia) and Mr. Haider Mahmoud (Jordan) were unanimously elected Vice-Chairmen of the meeting.

Report 11. The provisional agenda of the meeting of the Committee, as appearing in document UNESCO/WIPO/CGE/AAR/I Prov., was adopted.

Report 12. Discussions were based on the Memorandum on Questions Concerning the Protection of Works of Applied Art prepared by the Secretariats (document UNESCO/WIPO/CGE/AAR/3).

Report 13. The participants who took the floor in the general discussion congratulated the Secretariats

on the excellent quality of the document and emphasized the usefulness of devising principles which would be proposed as guidance to national legislators in the establishment of rules providing adequate protection under copyright law of works of applied art.

Report 14. Some delegations, while expressing their general agreement with the document, indicated that they had reservations in respect of certain principles and would make comments on the specific issues concerned.

Report 15. Some delegations stressed the special importance of the working document and the discussions at the meeting of the Committee from the viewpoint of the revision of their national laws and gave information about certain principles and solutions which were considered in the framework of the preparatory work of the revision.

Report 16. One delegation spoke about the dangers that copyright infringements represented for designers. It underlined that not only were the economic interests of the creators prejudiced, but since infringing copies of works of applied art were cheaper than the original ones it might also lead to a wrong impression by the general public about the prices and the marketing tactics of the producers of the original copies.

Report 17. Another delegation expressed the view that the borderline between copyright protection and sui generis design protection should be drawn very cautiously and only those works should be protected by copyright which really deserved such protection. If, however, works of applied art were protected by copyright, there was no reason to grant protection to such works at a lower level than to other categories of works.

Report 18. Still another delegation emphasized that the application of copyright to purely utilitarian articles might limit the competition in respect of such articles to a great extent. That fact justified the need to clarify the linkage between copyright and design laws, so that it would be possible to determine with certainty whether a given article could be protected by copyright, industrial design law, both, or neither.

Report 19. An observer from an international non-governmental organization spoke about the similarities prevailing in respect of the creation of works of visual art, works of architecture and works of applied art, and stated that, consequently, the authors of such works should also enjoy equal copyright status.

Report 20. An observer from another international non-governmental organization supported the views mentioned in the preceding paragraph and gave information about the activities of his organization for the promotion of the protection of works of applied art and of their creators at the international, regional and national levels.

General Considerations Concerning the Protection of Works of Applied Art/Industrial Designs

10. The protection of works of applied art involves special interests which—in several respects—differ from those prevailing in the case of other categories of literary and artistic works. In particular, the interests of the following categories should be taken into account:

- the authors/designers,
- the producers,
- the competitors—both authors/designers and producers,
- the consumers,
- society, i.e., the total social framework within which the products appear.

11. With such a plurality of interests it is clear that the varying needs for protection cannot easily be satisfied. A legal protection of works of applied art must, on the one hand, create a reasonable security for the protection of the results of the creative activities of designers and for the investments by producers and, on the other hand, be so constructed that the interests of the consumers in having access to well-functioning, appealing and low-priced products as well as the needs for technical and esthetic space to maneuver for competitors are taken into account.

12. Authors/designers must get a fair remuneration for their work. This presupposes that their works are not immediately regarded as a part of the public domain that can be freely copied by everybody. A prerequisite for continued creativity is, thus, that society can offer means of protection which correspond to the creative activities of designers. At the same time, the chosen ways of protection must give room for honest competition on equal terms.

13. Authors normally have an interest in obtaining protection from the moment of the creation of the design. They also prefer a protection that is easy to achieve and not dependent on formalities. Many designers work in small units or alone and take assignments from different producers. Their compensation is mostly paid as royalties. Therefore, they are very dependent on the success of the products they have created.

14. From the point of view of the author's/designer's creativity, there is no difference whether he makes a work as an original, or he makes a prototype for mass production.

15. The producers need the protection of their products against competing imitations for being able to re-

coup their investment with a reasonable profit. This is a prerequisite for investing in new designs—by employed artists or by free-lance ones—instead of just copying the existing products.

16. This need for protection is generally comparatively short-lived as is normally the period for recouping investments in design, and may comprise only a fraction of the lifetime of the product on the market. But there also exists additionally a longer need for protection of the goodwill of a company which is often linked to a certain style or product design, which may be part of the whole image of a company.

17. A producer has an interest in not risking being unjustly accused of having infringed the rights of another producer. Therefore, producers generally prefer a property right with a barring effect, which eliminates problems of proof in areas where a risk of double creation might exist.

18. Competitors have a right to expect that protection is constructed so as not to risk or hinder their independent design developments. As the creation of works of applied art/industrial designs is partly governed by the purpose and functionality of the products, it may be feared that automatic exclusive rights, such as copyright, could seriously hinder the efforts of others. It should be seen, however, that a close similarity between different outer forms are not at all likely to occur without—conscious or unconscious—imitation.

19. Competitors additionally have a right to know what is protected and what is unprotected. This need is especially important in connection with an exclusive property right. Contrary to the author, who normally would know if his work is in fact a copy, the producer may not have the same knowledge. In such a situation, the producer might be held responsible for infringing the work of another.

20. The consumers are interested in the existence and presentation of high-quality and esthetically attractive products on the market. But they are also interested in being able to buy those products as cheaply as possible. The consumers have a further interest in not being misled as to the originality of the decision when making the decision to buy.

21. Whether a product is original or an imitation is, normally, of minor importance to the consumer, as long as the product as a whole seems to be equivalent. Therefore, in the short perspective, consumers have interests partly contrary to those of the authors and the producers of original products. The risk of ruining the creative resources in society does, however, in the longer perspective, result in diminishing and even eliminating the conflict of interest. Also, the consumers will, of course, suffer from a dull and unambitious offer of products on the market.

22. Society has, parallel with the interests of the individuals, an overall interest in keeping fair competition in the market place. At the same time, society also has a gen-

eral economic interest in seeing that every creative effort and every investment made can be exploited as efficiently as possible, which is not the case if a product is forced out of the market before the investments are regained.

23. There seems to be a risk that a growing number of producers choose to copy instead of investing in new original works. In the short term, this may result in a desperate upsurge of creative activity, because the authors/designers are trying to keep ahead of imitators. But this is an economically unsound behavior, and in the longer perspective authors and producers investing in creativity will have a hard time to survive. Jobs may disappear and design culture may be impoverished. Therefore, an efficient protection system creating optimum balance between various conflicting interests is indispensable.

Report 21. One delegation was of the opinion that the first two sentences of paragraph 21 of the working document stressed too much the possible short-term interests of consumers concerning imitations. The last two sentences of the paragraph might counterbalance those statements but it would be advisable to eliminate the possibility of misunderstanding by rewording the first two sentences.

Works of Applied Art/Industrial Designs in the Border Area of Copyright and Industrial Property

24. Works of applied art/industrial designs are of double nature. They contain the elements of artistic creation but those elements are included in or expressed by means of useful articles. The special interests relating to the creation and utilization of such productions reflect just this double nature which also necessarily determines the methods of protection. Artistic creations are protected by copyright, while the protection of new utilitarian products are governed by the principles of industrial property law. A very important question is which of the two systems should be applied to works of applied art/industrial designs, and whether the two systems should be applied in a parallel or in a combined manner.

25. In respect of works of applied art/industrial designs, industrial property type protection means, in general, protection under special design laws whose main characteristics are the following: registration on the one hand and novelty and/or qualitative originality (that is, the existence of something more than a mere independent creation) on the other as conditions of protection, a shorter term of protection—at least generally—than in the case of copyright, and the fact that those laws grant not only protection against unauthorized reproduction or imitation but they grant an absolute right (which can be invoked even against a designer who has independently made a similar design and who can prove that he has not even known the protected designs). In addition to such special design protection, patent protection may also be applicable in certain, fairly rare, cases and trademark protection may also be relevant. (The present document deals with the copyright protection of works of applied

art/industrial designs. Consequently, it does not discuss the details of industrial property type designs protection, but only refers to such parallel or alternative protection when and to the extent to which it is necessary for describing the scope and the conditions of copyright protection.)

26. If the two protection systems—copyright protection and protection under industrial property by means of *sui generis* design laws—are analyzed from the viewpoint of the various interests discussed above, it can be found that both of them have certain advantages and disadvantages.

27. The greatest attraction of copyright protection is that it can, in general, be obtained without any formality whatsoever. Special design laws prescribe, in general, registration and deposit and sometimes make protection dependent on the results of search and novelty tests. This may be burdensome for designers for several reasons. It costs money, the test may take a long time and the procedure may cause other inconveniences. But the greatest disadvantage for them is, of course, the possibility of losing their rights if they do not fulfill those formalities in time. In this respect, the automatic nature of copyright protection is an unquestionable advantage for both designers and producers.

28. The registration—and frequently the publication—of the designs to be protected also offers advantages to producers. It gives them the opportunity to find out which designs are already protected, and for the benefit of whom and until what date this protection exists. This advantage can, of course, only be enjoyed if properly centralized registers and appropriate publications are available.

29. Producers may find special design protection advantageous also because it offers them a more solid and more objective basis for investing into the products concerned. They may be afraid of being dependent on some subjective judicial appraisal on the basis of which it is decided whether a design is original and has artistic character and therefore is entitled to copyright protection.

30. The wide scope of protection offered by copyright is certainly attractive to designers. On the other hand, some generous elements of copyright protection do not fit well to the special circumstances of the creation and utilization of designs, such as moral rights, and the fact that a number of national laws grant original ownership of copyright in works created under an employment contract to the employee. Therefore, producers may prefer a *sui generis* protection system where designers do not enjoy such extensive rights.

31. Sometimes, the term of protection under copyright—which is in general longer than in the case of special design protection—is also said to be a feature being in conflict with certain justified interests related to design protection. However, this may be an academic problem, because the majority of industrial designs can only be utilized for a short time, and as soon as they are not used anymore, it is irrelevant whether they could have been

protected for one more year or 46 more years. And it can also hardly be said that a longer protection is an unnecessary obstacle to competition since copyright does not establish monopoly against using the results of independent design development activities.

32. The shorter term of protection under special design laws is justified just by the fact that this protection is of an absolute kind. Such a kind of protection is certainly attractive to producers—and indirectly also to designers—because it generally guarantees a safe period of time for reaping the benefits of the creative efforts and investments made.

Report 22. Some delegations referred to paragraph 31 of the working document and said that there were designs which were utilized for a longer period and, in the case of such designs, the question of a shorter or longer term of protection was not a mere academic problem. It was also stated that one might apply strict criteria for establishing copyright protection for works of applied art, but once such protection was granted it should not be weaker than the protection of other categories of works.

The Provisions of International Copyright and Industrial Property Conventions Concerning the Protection of Works of Applied Art/Industrial Designs

33. The original 1886 Act of the Berne Convention did not include works of applied art in the non-exhaustive list of literary and artistic works. It was the 1908 Berlin Act of the Convention which first mentioned this category of works. However, at that time, there was not yet a general agreement whether works of applied art should enjoy copyright protection. Therefore, while the protection of all other categories of works was an obligation of member States of the Berne Union, Article 2 of the Berlin Act only contained the following provision in regard to this controversial category: "Works of art applied to industrial purposes shall be protected so far as the domestic legislation of each country allows."

34. It was the 1948 Brussels Revision Conference which provided for an obligatory protection of works of applied art. Since then, Article 2(1) of the Berne Convention mentions works of applied art in the non-exhaustive list of works to be protected. However, Article 2(5) of the Brussels Act adds: "It shall be a matter for legislation in the countries of the Union to determine the extent of the application of their laws to works of applied art and industrial designs and models, as well as the conditions under which such works, designs and models shall be protected. Works protected in the country of origin solely as designs and models shall be entitled in other countries of the Union only to such protection as shall be accorded to designs and models in such countries."

35. The above-quoted provision of the Brussels Act of the Berne Convention reflects the fact that works of applied art/industrial designs are in the border area of

copyright and industrial property protection and that national laws differ considerably as regards the question which protection system should be applied, in which cases and under what conditions. This provision leaves countries party to the Convention free to decide whether they protect such creations by copyright, by *sui generis* design laws or by both. Member countries of the Berne Union are also free to determine the conditions under which works of applied art/industrial designs are protected. The provision furthermore contains an exception in regard to the principle of national treatment: works protected in their country of origin merely by *sui generis* design law may claim in the other countries only such protection as the latter give to their designs under a *sui generis* design law. In respect of the term of protection, the Brussels Act also gave a free hand to countries party to it. According to Article 7(3) of this Act: "in the case of works of applied art, the term of protection shall be governed by the law of the country where protection is claimed, but shall not exceed the term fixed in the country of origin of the work."

36. The 1967 Stockholm Act of the Berne Convention has modified the regulation of the protection of works of applied art (which regulation then has remained unchanged in the 1971 Paris Act). It determined a minimum term of protection for works of applied art which is 25 years from the making of such works (Article 7(4)). (However as the new provision underlines, this minimum is only obligatory "in so far as they are protected as artistic works"; that is, if they are protected as designs under *sui generis* design law, the term of protection may be shorter.) In harmony with this modification, Article 2(7)—which corresponds to the above-quoted Article 2(5) of the Brussels Act—starts with the words "Subject to the provisions of Article 7(4) of this Convention." In other respects, this provision has remained unchanged except that a phrase has been added to it at the end, and now its last sentence reads as follows: "Works protected in the country of origin solely as designs and models shall be entitled in another country of the Union only to such special protection as is granted in that country to designs and models; [and here comes the new phrase:] however, if no such special protection is granted in that country, such works shall be protected as artistic works." This means that a country which has no special protection for designs and models must always protect works of applied art as artistic works, in other words by its copyright law, and without any formality.

37. In the Universal Copyright Convention, works of applied art are not mentioned in the non-exhaustive list of literary, scientific and artistic works (Article I). However, Article IV.3. refers to this category of works with regard to the term of protection. It provides that "the term of protection in those Contracting States which protect photographic works, or works of applied art in so far as they are protected as artistic works, shall not be less than ten years for each of said classes of works." The phrase "in so far as they are protected as artistic works" makes it clear that the protection of such works is not an obligation of countries party to this Convention. This phrase also indicates that the minimum term of protection is applicable only if such works are protected by

copyright. If they are only protected by a *sui generis* design law, it could be regarded as illogical to demand that the rules of a copyright convention be applied to them.

38. As far as protection under industrial property law is concerned, the Paris Convention for the Protection of Industrial Property prescribes in its Article 5^{quinques} that industrial designs shall be protected in all States party to the Convention (this provision was adopted at the 1958 Lisbon Revision Conference). No specific provisions exist as regards the substance of the protection. This means that each member country of the Paris Union is free to determine the nature, subject matters and conditions of such protection.

39. There is one more international instrument in the field of the protection of industrial property that is relevant for the protection of industrial designs, namely, the Hague Agreement Concerning the International Deposit of Industrial Designs. Its original text was adopted in 1925 in order to eliminate the inconveniences caused by the need for multiple deposits in each country by offering the possibility of a centralized international deposit. The Hague Agreement has been revised four times of which the 1960 revision was the most important. The Hague Act of 1960 of the Agreement has introduced certain changes concerning registration formalities and the conditions of the international deposit which has rendered the Agreement acceptable for a greater number of countries.

40. The Hague Agreement does not involve any obligation concerning the subject matter to be protected or about the conditions and the extent of the protection of industrial designs; it is of purely procedural nature. The effects of the international deposit in the countries party to the Agreement are the same as if the designs were deposited there on the date when the international deposit takes place.

Report 23. No comment was made concerning this part of the working document.

The Extent and the Conditions of the Protection of Works of Applied Art/Industrial Designs

41. What copyright serves is the protection of original creations in the literary and artistic domains. The mode or form of expression of a work in no way affects its protection. It is generally agreed that the value or merit of a work, essentially a subjective value judgment, is also irrelevant in this context; in trying a case, for example, a judge is not supposed to appreciate the artistic merits or cultural advantages of a work.

42. There is a fairly general agreement about another principle of copyright protection, namely, that the purpose and destination of a literary or artistic work should not have any influence on its protection. It is particularly the meaning and application of this principle which is of great importance in regard to the protection of works of applied art/industrial designs.

43. It may seem obvious that if there is an artistic work and it is used for the design of a useful article, this utilization does not change the fact that it is a work protected by copyright. However, counterarguments may and do emerge in respect of such a view. It is said that the application of artistic works for the production of useful articles affects the marketing conditions of such articles, something which may be decisive in competition. The application of copyright protection which essentially serves other purposes than governing the conditions of industrial and commercial competition may cause problems in this field. Therefore—goes on this argumentation—the products in which artistic works are included in such a way should be protected according to the principles and within the framework of industrial property and not within copyright. There were several national laws or copyright bills—even if not adopted—which contained provisions based just on these arguments. For example, under the 1876 German Copyright Act the simple industrial reproduction of a work of art led to the termination of the copyright protection of the work, at least as far as such a type of utilization was concerned. Such “terminable copyright” existed also in the United Kingdom under the 1956 Copyright Act until 1968 when the Design Copyright Act was adopted. The rule of the 1956 Copyright Act was simple: copyright in any design ceased as soon as any article to which the design had been applied was reproduced more than 50 times by an industrial process. Even if this provision was abrogated in the United Kingdom in 1968, practically the same provision exists in some other countries with British legal traditions, like in Bangladesh, India and Pakistan.

44. “Terminable copyright” is an attractive solution for at least one reason: it creates a clear situation; there is no need for dealing with delicate borderline questions between copyright and *sui generis* design protection.

45. The same result can be obtained—even if on another basis—by means of leaving the choice of the system of protection to the owners of the rights. Of course, this choice is partly determined by the legal conditions of the two systems for protection, conditions which, in general, are more strict in respect of copyright than in that of *sui generis* design protection. The essence of the “choice solution” is this: works of applied art/industrial designs cease to be protected by copyright if they are registered under the special design law. Such a regime exists for example in Italy and also in some countries with British legal traditions like in Bangladesh, India, Israel and Pakistan.

46. The majority of countries, however, do not follow the above-mentioned system of full separation of the application of copyright and that of special design laws; instead, they apply a system of full or partial cumulation of the two possibilities for protection.

47. The prototype of the not too numerous legal systems where full cumulation prevails is the unlimited coexistence of copyright and *sui generis* design protection in France.

48. This coexistence of the two systems began as early as at the beginning of the 19th century when, after the Copyright Law of 1793, a special design law was adopted in 1806. French courts struggled for nearly one century to establish a demarcation line between designs which deserved protection as works of "pure art" and those which were only protected by the design law. They applied several criteria without being able to eliminate the repeated flaring up of borderline disputes; such criteria as the purpose and destination of the design (works of applied art created for the purpose of industrial reproduction were only protected by the design law), the method of reproduction (handicraft articles were protected by copyright, while those which were reproduced by mechanical means were not), the primary or secondary character of the artistic features of the article, etc. When these more or less objective criteria failed to produce reliable results, French courts also applied purely subjective criteria such as the relative artistic value of the design. Legal uncertainty led to the victory of the theory of "unity of art." The French Copyright Law was amended in 1902, and it was declared that all "designers of ornaments, whatever may be the merit and the purpose of the work" enjoyed copyright protection. "Industrial art" was recognized to be on equal footing with traditional art and, because both the merit and the purpose of works created in this field—as in any other fields—were declared irrelevant, even the most modest original design elements of any useful article became protectable by a very generous copyright law.

49. The only designs of useful products that are not protected under the French Law provisions are those which are determined by the function of the products in an absolute manner, not leaving room for any original elements. Those are just the designs which are not protected under the *sui generis* design law either. Therefore, the two protection systems overlap each other; the cumulation is full.

50. Belgium also applied this legal solution until the adoption of the Uniform Benelux Law on Designs and Models in 1975. In the United Kingdom also, full cumulation prevails even if only for a period of 15 years as defined in the Design Copyright Act 1968.

51. The system of full cumulation grants a wide and long term protection to authors and also to producers to which authors transfer the right of utilization. It has also the advantage that it avoids the need for any delimitation between the two protection systems. However, it also has some negative features for which it is more and more criticized—even in its "birthplace," in France.

52. Those who criticize this system or, at least, its exaggerations, point to the consequences to which its application has led. Such a great variety and large quantity of useful products with only minor elements of originality and with dubious artistic character are protected as "artistic works" that it may create dangerous inflationary trends in copyright. The contradictions caused by the flood of such "works" have been accentuated by the fact that since the victory of the theory of "unity of art," the methods of industrial production and the role of design

creation have changed significantly. On the one hand, the ever wider application of certain uniform standards and the increasing constraining force of technical implications leave less and less room for original elements and such elements are not created anymore by "application of art" but as an integrated part of the whole research, development and production process. On the other hand, the producers of more and more products feel constrained by the competition on the market to produce articles whose form and other esthetic features are attractive to the customers.

53. The theory of "unity of art" contains one central element which seems to be rational. It emphasizes the fact that copyright is supposed to protect all original creations in the literary and artistic domain; consequently, an artistic creation should be protected also when it is applied to a useful product or when it just exists as the original esthetic form of such a product. The source of the contradictions is rather the exaggerated application—and perhaps not totally correct interpretation—of the principle that no evaluation should take place in regard to the merit and the purpose of the work. This principle does not mean that courts do not have to apply any qualitative test. They should answer the questions whether a production is really original, whether it is an intellectual creation in nature and whether it is in the artistic domain.

54. Those who still are advocates of "unity of art" are of the opinion that this theory has not ceased to be correct and that the only thing to be done is the elimination of the contradictions caused by exaggerations in practice. No protection should be granted to designs that are not original and of an artistic character. It is possible that with such a new approach, the scope of the copyright protection of works of applied art could be restricted to creations that really deserve such protection. However, such a development might be the end of full cumulation because some designs that would be excluded from this protection could still be protected under the special design law.

55. The starting point of partial cumulation is just what is described as solution in the preceding paragraph. Countries that apply the system of partial cumulation grant general protection for designs under *sui generis* design laws and restrict copyright protection to a smaller number of creations that pass a stricter test of originality and of artistic character.

56. The legal systems of the Federal Republic of Germany, the Benelux countries and the Nordic countries are mentioned most frequently as examples of partial cumulation and for the restriction of copyright protection to designs being above a certain "work level."

57. In the Federal Republic of Germany, a production in the field of applied art should contain a certain "artistic level" for being protected by copyright, and the courts are more severe in testing originality in this field than in the field of other categories of works. This legal practice sometimes is criticized as being based on subjective value judgments. But it is defended at least for two reasons. The first is that what is involved is not a judgment about the

value or merit of an artistic work but the basic question whether the design is of an artistic nature at all. And the second reason is that certain criteria have been established to avoid subjectivity. The question whether a work in this domain is artistic or not is answered on the basis of "the average judgment of those citizens who are receptive to art and somewhat familiar with artistic things." In the framework of a court case, the latter criterion is, of course, judged with the assistance of experts.

58. The legal situation is essentially the same in the Benelux countries where "marked artistic quality" is needed for the copyright protection of works of applied art. This notion does not mean that any value judgment is necessary or even allowed concerning the merit of works of applied art that are of an artistic nature. It only means that there should not be any doubt that the design is of an artistic nature.

59. In the Nordic countries, the requirement of originality has found a very strict application in regard to works of applied art, and the result is that the percentage of designs enjoying copyright protection is around the same level as in the Federal Republic of Germany and in the Benelux countries.

60. In the Eastern European socialist countries, similar trends can be identified. In the copyright laws of those countries, great emphasis is put on the special personal relationship between the author and his work, and the basic recognized reason for copyright protection is that literary and artistic works in a way express the authors' personality. A mere utilitarian product without any significant stamp of the personality and without clear artistic character hardly meets the requirements of copyright protection.

61. In the systems of partial cumulation, the notion of art and artistic work is a central element. It is emphasized that giving a useful article a form—even if it is not totally determined by the functions and technical characteristics of the product—does not necessarily mean that something artistic is created. This central element is particularly clearly reflected in the Japanese legal system where only those works of applied art are protected by copyright which are judged to be equivalent to the creations of "pure art," that is to "fine arts" in the traditional sense.

62. In the United States of America, a similar criterion was applied for a while. Those works of applied art were granted copyright protection which could be recognized as works of art in the historical and ordinary sense of art. From the end of the 1950's, the practice changed and the notion of separability was introduced. The provisions of the 1976 Copyright Act concerning works of applied art have been based on this notion.

63. The relevant provisions of the 1976 Copyright Act read as follows: "Pictorial, graphic, and sculptural works include two-dimensional and three-dimensional works of fine, graphic, and applied art, ... technical drawings, diagrams, and models. Such works shall include works of artistic craftsmanship insofar as their form but not their

mechanical or utilitarian aspects are concerned; *the design of a useful article, as defined in this section, shall be considered a pictorial, graphic, or sculptural work only if, and only to the extent that, such design incorporates pictorial, graphic, or sculptural features that can be identified separately from, and are capable of existing independently of, the utilitarian aspects of the article.*" (Section 101; emphasis added). The definition of "useful article" is provided for in the same section: "A 'useful article' is an article having an intrinsic utilitarian function that is not merely to portray the appearance of the article or to convey information. An article that is normally a part of a useful article is considered a 'useful article'."

64. The "birthplace" of "separability" ("*scindibilità*") was Italy. Article 2(4) of the Italian Copyright Statute of 1949 mentions works of applied art in the following manner in the non-exhaustive list of protected works: "works of sculpture, painting, drawing, engraving and similar graphic arts including scenic art, *even when such works are applied to an industrial product if their artistic value is distinct [scindibile] from the industrial character of the product with which they are associated*" (emphasis added). There are similar provisions in the copyright laws of some Latin American countries, like Brazil and Colombia.

65. Separability means first of all material separability which covers works practically equal to works of "pure art" (just applied to useful articles). But sometimes it also extends to "conceptual" separability which means that the object can be enjoyed as a pure esthetic fact, independently of its use as an article that can satisfy other needs. (Cellini's famous saltcellar is frequently mentioned as an example; its form could be applied to a great variety of containers serving other purposes, arguably, without interfering with the practical use of any of those articles.)

66. After the above analysis of differing solutions at the national level, now an attempt can be made to offer a definition of works of applied art and industrial designs. In national laws various expressions are used, such as works of applied art, industrial designs and models, works of craftsmanship, etc., but those are, in general, synonyms. Works of applied art also mean designs and models and vice versa; industrial designs also cover works of craftsmanship and vice versa; "designs" when used alone also include three-dimensional models, etc. It does not mean, however, that it is easy to outline a generally acceptable definition of those expressions.

67. The following principle is offered for consideration:

Principle AA1. (1) "A work of applied art" is a two-dimensional or three-dimensional artistic creation incorporated in a useful article, whether handicraft or produced on an industrial scale. Works of applied art also include industrial designs to the extent such designs correspond to the definition provided for in the preceding sentence.

(2) A "useful article" is an article having an intrinsic utilitarian function that is not merely to

portray the appearance of the article or to convey information.

(3) An "industrial design" is a composition of lines or colors or a three-dimensional form, whether or not associated with lines or colors, provided that such composition or form gives a special appearance to a product of industry or handicraft and can serve as a pattern for a product of industry or handicraft.

68. The definition of "industrial design" above is based on the definition of the same notion contained in section 2(1) of the WIPO Model Law for Developing Countries on Industrial Design, adopted in 1969. The commentary on that provision mentions that most laws in the French language distinguish between "designs" (*dessins*) and "models" (*modèles*) on the basis that "designs" are in two dimensions whereas "models" are in three dimensions. "However—continues the commentary—this distinction has no legal significance. The French words '*dessins et modèles*' are, as in the Paris Convention, translated in the Model Law by the single English word 'design'."

69. As far as the scope and method of protection is concerned, because of the widely differing national solutions, only a principle of general nature can be outlined:

Principle AA2. (1) Works of applied art and industrial designs should be protected either by copyright or by sui generis design law or by both.

(2) Works of applied art and industrial designs that are original artistic creations should, preferably, be protected, at least, by copyright.

Report 24. Some delegations informed the Committee about certain provisions in their national laws concerning the protection of works of applied art/industrial designs and/or certain new developments in the legislation and the case law of their countries.

Report 25. Some other delegations expressed a reservation concerning the idea that "terminable copyright" could be an attractive solution.

Report 26. Several questions were raised in respect of the definitions contained in Principle AA1. One delegation considered that certain notions in the definitions were not always clear. On the basis of the explanation given by the representatives of the Secretariats, Principle AA1 was accepted in general. Nevertheless, certain comments and proposals were made. In particular, it was thought that there was a need for a careful drafting of paragraphs (1) and (3) of that principle, having regard to the overlap in the terms "works of applied art" and "industrial designs."

Report 27. Some delegations suggested that in paragraph (1) of Principle AA1, it would be more appropriate to speak about artistic works with utilitarian functions rather than about artistic creations incorporated in useful articles, in order to avoid, by means of such a wording, the notion of separability which seemed to be contained in Principle AA1. The latter category was more restricted and did not express all aspects of works of applied art.

Report 28. Several participants were of the opinion that the definition of "industrial design" contained in paragraph (3) of Principle AA1 should be reconsidered, taking into account certain new developments in the field of designs since 1969 when the Model Law, mentioned in paragraph 68, was adopted, and should be made more detailed in certain respects.

Report 29. One delegation said that it might support a definition of "work of applied art" which more clearly differentiated between, on the one hand, a "work of art" applied to a "useful article" which might be protected by copyright and, on the other hand, an artistically designed functional or mechanical work which should be protected, if at all, by sui generis legislation. It also supported inclusion of the "separability" test as part of the definition of a "work of applied art" in view of the generally satisfactory results achieved in its country where courts had been successful in differentiating between protected artistic designs and non-protected designs on the basis of such a test.

Report 30. It was generally held that in Principle AA2 of the working document, paragraph (1) was sufficient, and that paragraph (2) could be deleted, as it did not add new elements to the preceding paragraph and might lead to misunderstandings.

The Use of Computer Systems for the Creation of Works of Applied Art

70. In the field of works of applied art, computers are increasingly used as a creative tool. It is particularly true in respect of industrial designs. It does not seem necessary to suggest a particular regulation in this respect. A specific question may nevertheless call for some attention, viz. the ownership of copyright. As regards the use of computers in this context, it is useful to recall the work of the Committees of Governmental Experts that met to consider the copyright problems arising from the use of computers for access to or the creation of works (Paris, December 1980 and Paris, June 1982) and, in particular, the recommendations adopted by the second Committee of Experts.

71. As regards the use of computer systems for the creation of works, the relevant recommendations are the following (paragraphs 13 to 17) (Report, Annex I):

"13. These recommendations do not deal with or affect the protection of computer software or programs as such which may enjoy protection under national laws (e.g. copyright, patent, unfair competition or trade secrets).

"14. Where computer systems are used for the creation of works, States should basically consider them as a technical means used in the process of creation for achieving the results desired by human beings.

"15. In order to be eligible for copyright protection the work produced with the help of computer systems must satisfy the general requirements for such protection established by the international conventions and national laws on copyright.

"16. In the case of works produced with the use of computer systems, the copyright owner in such works can basically only be the person or persons who produced the creative element without which the resulting work would not be entitled to copyright protection. Consequently, the programmer (the person who created the programs) could be recognized as coauthor only if he or she contributed to the work by such a creative effort.

"17. When a computer system is used in the case of commissioned works or in the case of works by a person or persons under an employment contract, the matter of attribution of copyright ownership should be left to national legislation."

72. On the basis of the above-mentioned considerations, the following principles are offered for consideration:

Principle AA3. When computer systems are used for the creation of works of applied art, such systems should be considered as technical means in the process of creation for achieving the results desired by human beings.

Principle AA4. In the case of works produced with the use of computer systems, the copyright owners in such works are the persons who produced the creative elements without which the resulting works would not be entitled to copyright protection. Consequently, programmers (persons who created the programs for such systems) can be recognized as coauthors (or single authors, as the case may be) only if they contributed to the work by such a creative effort.

Report 31. An observer from an intergovernmental organization stressed that the creators of computer programs should be protected as authors and that it was not appropriate to determine their protection in respect of literary and artistic works created by such programs. He added that if computer programs were used for the adaptation of preexisting works, no coauthorship existed between the author of the

preexisting work and the creator of the program and, in such cases, the general copyright provisions concerning the right of adaptation and the rights of adaptors should be applied.

Report 32. In answer to the comments mentioned in the preceding paragraph, the representative of the Secretariats pointed out that the working document did not cover the questions of the protection of computer programs in general, and it would go beyond the terms of reference of the Committee to deal with those questions. In Principle AA4, what was considered, first of all, was the creation of new original works by means of computer systems rather than adaptations. If an adaptation of original character was created by means of computers, considerations similar to those reflected in Principle AA4 prevailed; in such a case, however, the general copyright provisions concerning the rights of the author of the original work and of the adaptor should also be taken into account.

Report 33. One delegation, while expressing its agreement with Principles AA3 and AA4, said that the creation of works by means of computers was not a specific phenomenon concerning works of applied art. There were other categories of works—such as musical and graphical works—where such a means of creation was more typical and widespread. It was of the opinion that it would be useful to consider this question separately taking into account all categories of works concerned.

Works of Applied Art Created by Employed Authors

73. The basic dilemma that legislators have to face in the case of works created by employed authors is whether copyright should originally vest in the author or in the employer. Both solutions can be found in existing national laws: some generally vest copyright originally in the employed author, whereas others generally vest copyright originally in the employer.

74. In the case of works of applied art, however, special circumstances exist that may have influence on the regulation of ownership of rights in such works created within the scope of an employment contract even in countries in which copyright is generally vested in the employed authors. Works of applied art serve utilitarian purposes and very often are manufactured as mass products by means of industrial methods. It is also becoming ever more typical that the esthetic features of such products are not created in a way that could be called "application of art" to useful articles but as an integral part of the development and production of such articles. The conditions of the development production, and marketing of such products may justify a legal regulation that facilitates the

acquisition of copyright for the producers and guarantees them reasonable legal security. Therefore, the following principle is offered for consideration:

Principle AA5. Where a work of applied art is created in the scope of an employment contract, the economic rights (such as the right of reproduction and the right of adaptation) should, unless otherwise provided in contract, be considered as originally vested in the employer. (In regard to the rights of the author to claim authorship, see Principle AA6.)

Report 34. One delegation expressed its disagreement with Principle AA5. It was of the opinion that although the principle, as proposed in the working document, might not be incompatible with the Berne Convention—taking into consideration the liberty offered to States party to the Convention by its Article 2(7) in respect of works of applied art and industrial designs—it would better correspond to the spirit of the Convention if copyright in such works were originally vested in the author. It proposed that there should be a first principle stating that copyright was originally vested in the creator himself even if he was an employee and that in such a case economic rights should be deemed to be transferred to the employer, unless expressly otherwise provided in contract. A principle along those lines would guarantee the same economic results as the original Principle AA5. The original Principle AA5 could be kept as an alternative principle.

Report 35. A number of participants supported the statements and suggestions mentioned in the preceding paragraph.

Report 36. Some other delegations stated that, in their opinion, the economic rights could be deemed to be transferred to the employer only to the extent necessary for the sphere of his activities.

Report 37. One delegation indicated that it could not approve Principle AA5 as it stood.

Report 38. Some other participants expressed their support for Principle AA5. They referred to the fact that there were many national laws—including the copyright laws of a number of States party to the Berne Convention—under which copyright, in general, or at least in the case of certain categories of works, was originally vested in the employer. It was stressed that such national laws could not be considered as incompatible with the Berne Convention.

Report 39. One delegation referred to the results of the Committee of Governmental Experts on Model Provisions for National Laws on Employed Authors,

held in Geneva in January 1986, and particularly to the fact that the Committee had been unable to offer principles which would have been acceptable both for countries with “continental” legal traditions and for common law countries. Nevertheless, it found it important that the discussions concerning employed authors should continue, but in a broader context. No attempt to offer separate principles concerning works of applied art should be made because there were no specific considerations which would only be relevant in respect of such works. Another delegation supported those views.

Report 40. Some other participants were of the opinion that the specific considerations discussed in paragraph 74 of the working document were valid and they might justify a separate principle concerning works of applied art.

Report 41. An observer from an international non-governmental organization expressed her regret that copyright protection was extended to an ever wider circle of productions that were not literary and artistic works proper but rather of utilitarian nature and of essential industrial character. In respect of such productions, special considerations, like the ones mentioned in paragraph 74, might be justified and special provisions based on such considerations might lead to a derogation of the general level of copyright protection.

Moral Rights in Works of Applied Art

75. Moral rights are the expression of the close and intimate link which exists between the work and its author. The nature of this link, however, is influenced by the special conditions of the creation and utilization of works of applied art.

76. Article 6^{bis}(1) of the Berne Convention provides as follows: “Independently of the author’s economic rights, and even after the transfer of the said rights, the author shall have the right to claim authorship of the work and to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the said work, which would be prejudicial to his honor or reputation.”

77. The right to claim authorship contains at least two basic elements. The first is that the author has the right to be recognized as author; nobody else can pretend that he is the author of the work. This element does not create any problem in respect of works of applied art.

78. The other element of the right to claim authorship is the author’s right to have his name indicated on the copy of the work or in relation to it. There are certain types of works of applied art where the indication of the name of the producer and/or the designer is not unusual.

Using the name of a famous designer may also be in the interest of the producer for marketing purposes. Some examples: specially designed household equipment, glass, china, furniture, etc., are often packed or presented with a label or a folder mentioning the name of the producer and/or designer, clothes are also sold very frequently with a label containing information, while handicraft products sometimes even bear the signature of the author. Therefore, the right of the author to have his name indicated on the copies of the works of applied art or in connection with them may be exercised in some cases without any major problem. However, in the case of many types of mass products which are produced by industrial methods and whose artistic character is less significant or where in the case of articles where it would be difficult to affix a name, the name of the designer, in general, is not indicated. In such cases, the exercise of this element of the right to claim authorship would seem to be fairly unrealistic.

79. For the reasons discussed in the preceding paragraph, it is justified that in the case of a work of applied art, the employer be only obliged to indicate the name of the author if it is expressly provided for in contract.

80. On the basis of the above-mentioned considerations, the following principle is suggested:

Principle AA6. (1) Independently of the author's economic rights and even after the transfer of the said rights and/or after the alienation of the copies of the work of applied art, the author should have the right to claim authorship and be named on the copies of his work or in connection with them.

(2) In respect of works of applied art that have been created under employment contract or that, even if not created under employment contract, are reproduced by industrial methods, the author should, unless otherwise provided in contract, be deemed to have agreed not to be named as author on the copies of the work or in connection with them.

81. It goes without saying that the author can waive this right even if he is in the position to exercise it.

82. Article 6^{bis}(1) of the Berne Convention also provides for the right of the author to object to actions which would be prejudicial to his honor or reputation. The inclusion of a principle along the lines of that provision is not intended to suggest that the application of this right is a fairly realistic possibility in the field of works of applied art. Certain examples could, however, exist where the exercise of such a moral right would be of importance to the author. There is, therefore, a reference also to this moral right in paragraph (1) of Principle AA7.

83. What more frequently happens in reality is that the work of applied art is altered without the author's consent, and that he does not agree with such an alteration

even if it cannot be alleged that his honor or reputation has been prejudiced. For such a situation paragraph (2) of the following principle is offered for consideration.

Principle AA7. (1) Independently of the author's economic rights and even after the transfer of the said rights and/or after the alienation of the copies of the work of applied art, the author should have the right to object to any distortion, mutilation or other modification of, or other derogatory action in relation to, the said work, which would be prejudicial to his honor or reputation.

(2) Where his work has been altered without his consent, the author of a work of applied art—irrespective of whether his right mentioned in paragraph (1) could be exercised or not—should have the right to prohibit the association of his name with his work.

Report 42. Some delegations suggested that paragraph (2) of Principle AA6 should be deleted and the questions concerned should be settled in paragraph (1) of the same principle. As a possible solution was mentioned that the right to be named should be restricted to cases where the exercise of such a right was practicable and reasonable, or reference should be made to the customary way of exercising this right.

Report 43. Some other participants were against the deletion of paragraph (2) of Principle AA6 because they found it a practical and useful guidance for national legislators.

Report 44. One delegation said that there was a contradiction between Principle AA5 and paragraph (1) of Principle AA6. The latter paragraph referred to the author's economic rights and the possibility of transferring the said rights, while according to Principle AA5 the economic rights in works created under an employment contract were originally vested in the employer.

Report 45. In answering the comments mentioned in the preceding paragraph, the representative of the Secretariats expressed the view that there were no real contradictions between the two principles. Principle AA6(1) did not only cover works created under employment contracts but also works created by free-lance authors. Furthermore, Principle AA6(1) only emphasized that moral rights existed irrespective of whether authors owned the economic rights or whether they had transferred those rights.

Report 46. One delegation expressed its agreement with the comment contained in paragraph 81 of the working document, according to which the author could waive the right to claim authorship. It suggested, however, that that statement should be

raised to the level of a separate principle taking into account its importance.

Report 47. Another delegation, while expressing its agreement with paragraph (2) of Principle AA7, suggested that it should be transferred to Principle AA6 because it seemed to be more closely connected to the right to claim authorship than to the "right to respect" covered by Principle AA7.

Report 48. Still another delegation proposed that the right of adaptation should be recognized not only as an economic right but also as a moral right.

Report 49. Other participants opposed the proposal mentioned in the previous paragraph. They pointed out that the right to oppose certain alterations should not be recognized in a wider circle than the one defined in Article 6^{bis}(1) of the Berne Convention and as reflected in Principle AA7(1).

Economic Rights in Works of Applied Art

Report 50. One delegation stressed that in addition to the rights granted to authors of works of applied art, attention should also be paid to the modalities of exercising such rights. Contracts obviously represented the most fundamental and important way of exercising authors' rights. Collective administration of copyright was also based on individual contracts to a large extent. Authors, when negotiating contractual stipulations, were, in general, in a weaker position than users. Therefore, national laws should provide for guarantees in favor of authors to establish a fair balance between the interests of authors and those of users. About 120 national copyright laws contained more or less detailed provisions on authors' contracts; therefore, it would be useful to deal with the questions of authors' contracts also at the international level.

Report 51. Some other delegations supported the view that some questions of contracts should be considered also at the international level. They were of the opinion that any further studies should concentrate on certain general aspects of contractual law and should not go into detail because legal, economic and social conditions of possible legislative measures necessarily differed from country to country.

Right of Reproduction

84. The most important right in respect of works of applied art is obviously the right of reproduction. According to Article 9(1) of the Berne Convention "[a]uthors of literary and artistic works protected by this Convention

shall have the exclusive right of authorizing the reproduction of these works, in any manner or form." In Article IVbis1. of the Universal Copyright Convention, the "exclusive right to authorize reproduction by any means" is mentioned among the basic rights to be protected.

85. Both international copyright conventions allow, however, exceptions to this right. Article 9(2) of the Berne Convention reads as follows: "It shall be a matter for legislation in the countries of the Union to permit the reproduction of such works in certain special cases, provided that such reproduction does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author." Article IVbis2. of the Universal Copyright Convention provides that "any Contracting State may, by its domestic legislation, make exceptions that do not conflict with the spirit and provisions of this Convention, to the rights mentioned in paragraph 1 of this Article. Any State whose legislation so provides, shall nevertheless accord a reasonable degree of effective protection to each of the rights to which exception has been made."

86. There are at least two cases where exceptions to the exclusive right of reproduction may be considered in respect of works of applied art. The first is the reproduction of such works for personal and private use. However, it is possible that there are certain types of works of applied art, e.g., handicraft works whose copying for private purposes under certain conditions would conflict with a normal exploitation of the works and prejudice the authors' justified interests. Because of the widely varying situations in this respect, the present document does not contain a separate principle on the issue of copying for personal and private use.

87. The second case is the reproduction of the picture of a work of applied art (that is not a real copy of a work) situated permanently in a public place or which is produced by industrial methods. As far as the reproduction of pictures of works being in public places is concerned, several national laws contain provisions allowing the making of pictures of works without the authors' authorization. In respect of mass production works, the reason for a similar exception from the exclusive right of reproduction seems to be obvious: such works are available to the public and it is even in the interest of authors to have the pictures of the works appear in as wide a circle as possible.

88. The following principle, which covers only the most typical cases of reproduction of works of applied art, is proposed:

Principle AA8. (1) The author of the work of applied art should have the right to authorize:

(a) the making of reproductions of the work, that is, copies that are in every respect (material, color, dimensions) identical with the original;

(b) the making of pictures of the work by drawings, photography, cinematography or by processes similar to drawing, photography or cinematography.

(2) Any person may, however, make pictures as mentioned in paragraph (1)(b) of a work of applied art which is permanently in a public place or where copies of the work have been lawfully reproduced by industrial methods.

(3) Any other restrictions of the right mentioned in paragraph (1) should be in keeping with the provisions of the international copyright conventions to which the State concerned is party.

Report 52. It was stressed that in Principle AA8(1), it should be made clearer that the right of authorization was of an exclusive nature.

Report 53. Some delegations suggested that the wording of Principle AA8 should be transformed so as to bring it into harmony with Principle AA5.

Report 54. One delegation suggested also that the scope of paragraph (1)(a) of Principle AA8 should be extended to copies which were not identical with but substantially similar to the original.

Report 55. Several participants were of the opinion that paragraph (2) of Principle AA8 suggested too wide a restriction of the right of reproduction.

Report 56. One delegation indicated, in respect of paragraph (2) of Principle AA8, that it did not see any difference in the case of making pictures of works of applied art on the basis of the criterion of whether it was in a public place or not and it did not see any difference either from the viewpoint of whether reproduction was made by industrial methods or not.

Report 57. An observer from an intergovernmental organization stated that the relationship between paragraphs (2) and (3) of Principle AA8 should be further clarified.

Report 58. A number of delegations expressed their agreement with a possible exception to the right of reproduction allowing the making of pictures of works of applied art which were permanently in a public place. Several of them, however, proposed that the scope of the exceptions should be restricted and the exclusive right to authorize reproductions should be preserved at least in respect of cases where works of applied art were the main subjects of the pictures and such pictures were commercially utilized. Some delegations referred to their national laws where provisions existed to that effect.

Report 59. An observer from an international non-governmental organization said that the word "permanently" in paragraph (2) of Principle AA8

should be more precisely defined either quantitatively or by offering qualitative criteria.

Report 60. One delegation suggested that the second part of paragraph (2) of Principle AA8, dealing with reproduction by industrial methods, should be deleted because there were no specific considerations when it came to reproduction by industrial methods that would only be relevant in respect of works of applied art. Furthermore, it found that that part of the principle should at least be reworded and restricted, for example, to mass-produced copies of works which were mentioned in the last sentence of paragraph 87 of the working document. Several other participants supported those comments and were, in general, in favor of the deletion of the second part of paragraph (2) of Principle AA8. One delegation said, however, that in its view, it would be important to keep that part of the paragraph.

Report 61. Some delegations proposed that a separate paragraph in Principle AA8 or, at least, the commentary to the principle, should deal with the possible exceptions to the right of reproduction in respect of pictures of works of applied art incidentally used, for example, for reporting current events.

Right of Adaptation

89. According to Article 12 of the Bern Convention "[a]uthors of literary or artistic works shall enjoy the exclusive right of authorizing adaptations, arrangements and other alterations of their works."

90. In the case of works of applied art, an adaptation may mean any derivative work which involves changes like the change of material, of the color, of dimensions, etc. But "pictures" as mentioned in Principle AA8(1)(b) above are not adaptations; they are pictures.

91. The right of adaptation is an important economic right in the field of applied art; its recognition is fully justified. The application of this right might cause some difficulties in respect of works created under an employment contract. However, Principle AA5 above would eliminate such possible difficulties by stating that employers—in the absence of contrary stipulation in contracts—are original owners of economic rights.

92. It follows from the notion of works of applied art that they serve utilitarian purposes; therefore, during their utilization certain alterations may become necessary. It would be completely unrealistic to make such alterations dependent on the authors' authorization.

93. For the application of the right of adaptation, the following principle is proposed:

Principle AA9. (1) The author of the work of applied art should have the right to authorize the

making of adaptations (derivative works) of his work.

(2) The owner of a copy of a work of applied art should be entitled to make any alterations in the work which are necessary for its utilization.

Report 62. It was noted, also in respect of the right of adaptation, that, in Principle AA9(1), the exclusive nature of the right of authorization should be further emphasized and that, should Principle AA5 be kept, a more general wording should be used to cover not only authors but also employers as possible original owners of rights.

Report 63. Some delegations referred to paragraph 91 of the working document and expressed the view that no unreasonable difficulties emerged in respect of the application of the right of adaptation concerning works of applied art if such right was originally vested in the employed author.

Report 64. An observer from an intergovernmental organization expressed his disagreement with the statement mentioned in the preceding paragraph and insisted that, in cases described in Principle AA5, economic rights should be originally vested in the employer.

Report 65. One delegation expressed its concern regarding the reference made in the working document to certain modifications which could become necessary. It thought that it would be useful to determine which of the modifications could be allowed and which of them could not, taking into account the extent to which a modification might cause prejudice to the author through the denaturation of his work.

Report 66. Some other participants also pointed out that paragraph (2) of Principle AA9 could only be acceptable in respect of modifications which were not prejudicial to the honor or reputation of the author. It was agreed that reference should be made in Principle AA9(2) to Principle AA7(1).

Report 67. One delegation suggested that the words "as a useful article" should be added to the end of paragraph (2) of Principle AA9.

Report 68. An observer from an intergovernmental organization stated that the employer should be free to make adaptations of a work created by his employee in the framework of his employment contract, taking into account the limits established by the relevant provisions of the Berne Convention. Such a possibility was indispensable in view of the growing importance of designs and models in the production of useful articles.

Other Economic Rights

94. In respect of works of fine arts, there are two more economic rights whose application is of importance: the right of exhibition and the "droit de suite." It may seem necessary to deal with these rights also in the framework of the present document, because works of applied art are more or less closely related to works of fine arts.

95. The great majority of works of applied art serve direct utilitarian purposes; they are very frequently mass products being marketed to the largest possible public. Under such circumstances, it would be unrealistic to speak about a separate right of exhibition. They may be some rare handicraft creations whose quality and rarity may justify their exhibition without any marketing purposes. In such cases, however, the legal and economic questions can be settled in a contractual way without the implication of a right of exhibition.

96. The "droit de suite" is, in general, applied to works of fine art and to original manuscripts. It is true that the expression used in Article 14^{ter}(1) of the Berne Convention is "original works of art." However, in this respect, the WIPO Guide to the Berne Convention comments as follows: "the Convention does not define 'works of art'; but it is generally agreed that these consist of drawings, paintings, statues, engravings and lithographs, always provided that they are the originals, made by the artist himself. The right does not apply to works of architecture or to applied art." It may happen that national laws extend the application of the "droit de suite" to works of applied art (which can realistically be applied only to original copies of certain handicraft works) (see e.g., the Copyright Law of Hungary) but it does not seem to be justified to suggest such a wide application of this right in the present document in the form of a principle.

Report 69. One delegation mentioned that there were certain categories of works of applied art where the recognition of the right of exhibition might be justified. It said that, in its country, such a right of exhibition existed also in respect of works of applied art under certain conditions.

Report 70. Another delegation was of the opinion that the "droit de suite" should also be applied in respect of works of applied art. What was important from that viewpoint was the original nature of such creation; the number of copies produced was irrelevant. The delegation added that certain older works of applied art might become more valuable with time; they might even lose their original utilitarian functions and their artistic aspects might become dominant or exclusive.

Report 71. Still another delegation expressed doubts whether the "droit de suite" should be extended to works of applied art. It mentioned that, for example, in the legislation of its country, works of applied art were not covered by the "droit de suite."

The delegation drew attention to the practical problems of implementation of the right of the "droit de suite" which, in its view, were even more difficult in respect of works of applied art.

Report 72. An observer from an international non-governmental organization, while supporting the extension of the "droit de suite" to works of applied art, pointed out that the circumstances and the possible practical problems of the application of such a right differed in respect of whether public sales or private sales were involved. He raised the idea that those different conditions should also be expressed in a principle.

Term of Protection

97. As it was indicated in paragraphs 36 and 37 above, the international copyright conventions determine a minimum term of protection for works of applied art that is shorter than the general term of protection for literary and artistic works. (Under Article 7(4) of the Berne Convention, the term of protection is 25 years from the making of the work and under Article IV.3 of the Universal Copyright Convention it is 10 years without being indicated from what date this term should be calculated.)

98. There are some countries (e.g., Bulgaria, Guinea, Senegal, some Republics of the Soviet Union, United Kingdom, Yugoslavia) where the term of protection of works of applied art is shorter than that of other literary and artistic works. However, in the majority of countries, there is no shorter term for this category of works; the general term of protection prevails.

99. The regulation of the term of protection depends—among other circumstances—on the notion of works of applied art and on the relationship between copyright and special design law protection which, as was discussed above, differs to a large extent from country to country. Therefore, in this respect, it would not be justified to suggest any particular term of protection as a proposed standard in a separate principle. Of course, any national solutions should be in keeping with the provisions of the international copyright conventions to which the country is party.

Report 73. One delegation said that it would be advisable to repeat the statement contained in the third sentence of paragraph 36 of the working document, also under the title "Term of Protection," according to which the minimum terms of protection under the international copyright conventions were only obligatory if the national laws concerned protected works of applied art/industrial designs as artistic works.

The Status of Drawings and Models on the Basis of Which Copies of Works of Applied Art Can Be Prepared

100. There is no general agreement about the status of drawings and models on the basis of which copies of works of applied art can be produced and particularly not about their relationship with works of applied art.

101. There are views according to which, in the case of such drawings (plans) and models, on the one hand, and the works of applied art that can be produced on the basis of them, on the other hand, the subject matter of the protection is one and the same: the original artistic form of the useful article created by the author. On the basis of such a view, the preparation of copies of the work is covered by the right of reproduction. There are countries (e.g., Switzerland, United Kingdom) whose national laws contain provisions to this effect.

102. According to other views and other national solutions, however, what is involved in such a case is not a reproduction, but an adaptation (into another type of work), or just the coexistence of two types of independent creations.

103. The answer to this question at the national level involves some basic theoretical considerations and is closely linked to certain principles and general provisions. Therefore, it would not be appropriate to propose a standard solution in this document.

104. Instead of a principle, only the following considerations are offered for discussion: it seems to be wrong to say that the establishment of the three-dimensional version of *anything* that is the subject matter of a two-dimensional work (drawing, etc.) is a reproduction or adaptation of that work. First of all, a drawing is sometimes a reflection of something that already exists in nature and that has nothing to do with intellectual property. Even if the drawing represents an object which is the result of the author's imagination, it is far from being sure that such an object when transferred into three dimensions is also necessarily a work. It also happens fairly frequently that the drawing is not a detailed one and does not contain certain elements; therefore, the creation of a three-dimensional version requires independent creation and thus, the result may also enjoy independent protection. However, in certain cases, what is involved in the drawing is nothing less than the perfect and total determination of all the aspects of a work of applied art so that on the basis of this drawing, copies of such works can be prepared. In these cases, it can be said that what is protected in respect of works of applied art, namely the artistic form of a useful article, has been completely created already at this stage. In such a situation, the provisions in certain national laws, where the authorization of the owners of copyright in the drawings and models is necessary for the preparation of copies on the basis of such drawings and models, seems to be logical.

105. The example of the Design Copyright Law of the United Kingdom is mentioned sometimes as showing the

possible dangerous exaggerations in the application of such provisions. Under that Law, it is an infringement of copyright in a drawing which includes the design of a functional article, to manufacture that article without the consent of the owner of the copyright. However, it is not this provision that leads to certain problems that appear, for example, in respect of the copyright protection of spare parts and other components of purely technical character. The real source of such problems is rather the fact that the protection afforded by copyright to the design of functional articles exists irrespective of whether the design of the article has any esthetic quality or is purely functional. This means in turn that the problems do not follow from the way in which the relationship between drawings and works of applied art is regulated but rather from a very liberal notion of works of applied art.

Report 74. One delegation said that the topic of the relationship between drawings or models and copies of works of applied art was of great importance. It was understandable that the working document did not offer any principles about that controversial matter. It would be necessary, however, to continue studies on those questions, and particularly on questions of the copyright protection of purely functional articles, at the international level and to try and formulate some generally acceptable principles.

Report 75. Another delegation stressed that in the framework of future studies, more attention should be paid to the sociological, economic and legal circumstances of the creation and utilization of works of applied art; and the differences in respect of various categories of such works should also be taken into account. One of the main reasons for uncertainty in the field of the protection of works of applied art was the lack of information about the conditions of the creation and exploitation of such works in different countries. It said that it would be useful to collect and make available such information.

Conclusion

Report 76. The Committee noted that the results of the meeting would be taken into account in the preparation of the working document for the meeting of a Committee of Experts planned for the 1988–1989 biennium on a synthesis of the principles concerning the copyright protection of various categories of works.

Adoption of the Report and Closing of the Meeting

Report 77. The Committee unanimously adopted this report and, after the usual thanks, the Chairman declared the meeting closed.

LIST OF PARTICIPANTS

I. States

Australia: I. Govey. **Canada:** H.P. Knopf. **Denmark:** J.E. Carstad; L. Hersom. **Finland:** M.–L. Mansala. **France:** R. Lecat; S. Sayanoff–Lévy; M.–C. Rault; L. Guenot; W. Duchemin. **Germany (Federal Republic of):** M. Möller; M. Fernan. **Guinea:** O. Guilavogui. **Hungary:** G. Palos; J. Batta. **India:** A. Malhotra. **Italy:** G. Catalini; M. Fabiani. **Japan:** S. Kamogawa. **Jordan:** H. Mahmoud. **Mexico:** A. Fuchs. **Netherlands:** L.M.A. Verschuur de Sonnaville. **Panama:** M. Saavedra Polo. **Republic of Korea:** Young Koo Cho; Tae–Chang Choi. **Soviet Union:** B. Kokine. **Sweden:** A. Morner; B. Rosén. **United States of America:** D. Schrader; T. McMahon; A.L. Kuzma; J.V. Wolfe. **Uruguay:** R. Gonzalez–Arenas.

II. Intergovernmental Organizations

Commission of the European Communities (CEC): B. Posner. **Intergovernmental Bureau for Informatics (IBI):** R. Boros. **League of Arab States (LAS):** Z. Tlili.

III. International Non–Governmental Organizations

International Confederation of Free Trade Unions (ICFTU): P.R.P. Raterron. **International Literary and Artistic Association (ALAI):** M.–A. Perot–Morel. **International Secretariat for Arts, Mass Media and Entertainment Trade Unions (ISETU/FIET):** P.R.P. Raterron. **International Union of Architects (IUA):** J. Duret. **World Crafts Council (WCC):** J. Vedel–Rieper.

IV. Secretariat

United Nations Educational, Scientific and Cultural Organization (UNESCO)

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

World Intellectual Property Organization (WIPO)

A. Bogsch (*Director General*); H. Olsson (*Director, Copyright and Public Information Department*); M. Ficsor (*Director, Copyright Law Division*); P. Masouyé (*Legal Officer, Copyright Law Division*).



Studies

**Collective Administration of Authors' Rights:
the Practical Experience of an African Society**

Yves D. EPACKA*

**The Copyrightability of Colorized Motion Pictures
Under the U.S. Copyright Law**

Ralph OMAN*

Correspondence

Letter from Romania

Copyright in Romania—125 Years Old

Yolanda EMINESCU*

Activities of Other Organizations

Council of Europe

Committee of Legal Experts in the Media Field

(Strasbourg, October 20 to 23, 1987)

The Committee of Legal Experts in the Media Field of the Council of Europe, hereinafter referred to as "the Committee," met in Strasbourg from October 20 to 23, 1987.

Experts designated by the governments of 13 States, members of the Council of Europe, participated. WIPO was represented by Mr. Mihály Ficsor, Director, Copyright Law Division.

The Committee held hearings about the copyright questions of reprographic reproduction and about the practical problems of the implementation of statutory and contractual systems in various countries, with the participation of the representatives of international non-governmental organizations concerned and of national reproduction rights organizations. It decided to continue discussions on those questions in 1988, also taking into account the results of the meeting of the WIPO/Unesco Committee of Governmental Experts on the Printed Word to be held in Geneva in December 1987.

Furthermore, the Committee discussed the report of the Working Party on the legal protection of press agencies' products and agreed with the opinion of the Working Party which stated, *inter alia*, that

"... press agencies are in need of legal protection so as to ensure that their substantial financial efforts in producing (research and selection) of news is adequately remunerated, taking into account in particular modern technological advances made in the use of news in this and related fields of activity (e.g., satellite and cable broadcasting, teletext and other telematic services, data bases, etc.);

"... the issue of copyright is not pertinent to the subject of legal protection of press agencies' products as concerns mere facts and news;

"... it is, at present, premature to deal with this subject in terms of a possible draft legal instrument prepared under the auspices of the Council of Europe...."

The Committee also heard a progress report by the Secretariat on the work in the mass media sector of the Council of Europe.

Finally, the Committee set up a working party on fixed satellite services which should, in particular, study the copyright questions emerging as a consequence of the increasingly blurred technical differentiation between direct broadcasting satellites and fixed service satellites.

Books and Articles

Book Review

Opera de Creatie și Dreptul (Creative Work and the Law), by *Yolanda Eminescu*. One volume of 216 pages. Editura Academiei, Republicii Socialiste România, Bucarest, 1987.

Under the general heading of "Creative Work and the Law," Professor Eminescu, an eminent specialist in intellectual property law, presents a survey, written with great skill, on copyright and its situation resulting from some of the new uses generated by the headlong development of technology. The author's international reputation is reflected indirectly in the comparative part of the book. Numerous references are made to foreign law and the quotations bear witness to wide-ranging documentary research.

The author sets out a number of general considerations on the media, on copyright as a whole and on the situation of copyright in the developing countries. She reviews the sources of copyright at national and international levels. Her analysis then turns to protected authors and their works.

Computer programs and creative advertising, works of folklore, press articles are but a few of the categories of works analyzed in the book.

The author follows this panoply of works with an examination of the problems related to sound and audiovisual recordings, electronic manipulation of protected works and information and documentation centers.

The content of copyright and its limits are also treated in detail together with references to the various approaches, such as the notion of fair use. A whole chapter is devoted to the evolution of copyright on the basis of case law.

The author concludes her work with a chapter on the international copyright arrangements, in which she gives explanations, *inter alia*, on the Berne Convention, the Universal Copyright Convention, the Berne Union and WIPO.

The clarity and scope of this work, written in Romanian, will surely make it an authoritative and precious source of reference.

P.C.M.

Calendar of Meetings

WIPO Meetings

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

1988

- February 1 to 5 (Geneva) — Locarno Union: Committee of Experts on the International Classification for Industrial Designs
- February 4 (Geneva) — Hague Union: Users' Meeting
- February 15 to 19 (Geneva) — Permanent Committee on Industrial Property Information (PCIPI): Working Group on Automation
- March 7 to 11 (Geneva) — Committee of Experts on the Establishment of an International Register of Audiovisual Works
- March 14 to 18 (Geneva) — Permanent Committee on Industrial Property Information (PCIPI): Working Group on Standardization and Exchange
- March 21 to 28 (Geneva) — International Patent Classification (IPC) Union: Committee of Experts
- April 18 to 22 (Paris) — Committee of Governmental Experts on Photographic Works (convened jointly with Unesco)
- April 18 to 22 (Geneva) — Madrid Union: Assembly (Extraordinary Session)
- April 25 to 28 (Geneva) — Committee of Experts on Measures Against Counterfeiting and Piracy
- May 16 to 20 (Geneva) — Permanent Committee for Development Cooperation Related to Industrial Property
- May 30 to June 10 (Geneva) — Permanent Committee on Industrial Property Information (PCIPI): Working Group on the International Patent Classification (IPC)
- June 9 and 10 (Geneva) — Permanent Committee on Industrial Property Information (PCIPI): Ad Hoc Working Group A
- June 13 to 17 (Geneva) — Committee of Experts on the Harmonization of Certain Provisions in Laws for the Protection of Inventions (Fifth Session)
- June 13 to 17 (Geneva) — Permanent Committee on Industrial Property Information (PCIPI): Executive Coordination Committee; Patent Cooperation Treaty Committee for Technical Cooperation (PCT/CTC)
- June 20 to 24 (Geneva) — Nice Union: Preparatory Working Group
- June 27 to July 1 (Geneva) — Committee of Governmental Experts for the Synthesis of Principles Concerning the Copyright Protection of Various Categories of Works (convened jointly with Unesco)
- September 12 to 16 (Geneva) — International Patent Classification (IPC) Union: Committee of Experts
- September 14 to 16 (Geneva) — WIPO Worldwide Forum on the Impact of Emerging Technologies on the Law of Intellectual Property
- September 22 and 23 (Geneva) — Permanent Committee on Industrial Property Information (PCIPI)
- September 26 to October 3 (Geneva) — Governing Bodies (WIPO Coordination Committee; Executive Committees of the Paris and Berne Unions)
- October 4 to 7 (Geneva) — Permanent Committee on Industrial Property Information (PCIPI): Working Group on Automation
- October 10 to 14 (Geneva) — Permanent Committee on Industrial Property Information (PCIPI): Working Group on Standardization and Exchange
- October 24 to 28 (Geneva) — Committee of Experts on Biotechnological Inventions and Industrial Property (Fourth Session)
- November 21 to December 2 (Geneva) — Permanent Committee on Industrial Property Information (PCIPI): Working Group on the International Patent Classification (IPC)
- November 28 to December 2 (Geneva) — Committee of Experts on Model Provisions for Legislations in the Field of Copyright
- December 5 to 9 (Geneva) — Madrid Union: Preparatory Committee for Diplomatic Conference
- December 12 to 16 (Geneva) — Permanent Committee on Industrial Property Information (PCIPI): Executive Coordination Committee
- December 19 (Geneva) — Information Meeting for Non-Governmental Organizations on Intellectual Property

UPOV Meetings

1988

- February 19 (Geneva) — Council
- April 18 to 21 (Geneva) — Administrative and Legal Committee
- April 22 (Geneva) — Consultative Committee
- June 7 to 9 (Edinburgh) — Technical Working Party on Automation and Computer Programs
- June 13 to 15 (Wageningen) — Technical Working Party for Vegetables
- June 16 and 17 (Wageningen) — Workshop on Variety Examination (for Lettuce)
- June 20 to 24 (Melle) — Technical Working Party for Ornamental Plants and Forest Trees
- June 28 to July 1 (Hanover) — Technical Working Party for Fruit Crops, and Subgroups
- July 5 to 8 (Surgères) — Technical Working Party for Agricultural Crops
- September 27 and 28 (Cambridge) — Workshop on Variety Examination (on Examination Techniques)
- October 11 to 14 (Geneva) — Administrative and Legal Committee
- October 17 (Geneva) — Consultative Committee
- October 18 and 19 (Geneva) — Council
- October 20 and 21 (Geneva) — Technical Committee

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

Non-Governmental Organizations

1988

- January 25 and 26 (Cannes) — International Association of Entertainment Lawyers: MIDEM (Marché international du disque et de l'édition musicale) International Lawyers Meeting
- January 30 (Paris) — International Literary and Artistic Association (ALAI): Executive Committee
- March 21 to 25 (Locarno) — International Copyright Society (INTERGU): Congress
- May 9 to 11 (Tel Aviv) — International Confederation of Societies of Authors and Composers (CISAC): Legal and Legislative Committee
- June 12 to 17 (London) — International Publishers Association (IPA): Congress
- July 24 to 27 (Washington) — International Association for the Advancement of Teaching and Research in Intellectual Property (ATRIP): Annual Meeting
- October 6 and 7 (Munich) — International Literary and Artistic Association (ALAI): Study Days
- November 14 to 20 (Buenos Aires) — International Confederation of Societies of Authors and Composers (CISAC): Congress

1989

- September 26 to 30 (Quebec) — International Literary and Artistic Association (ALAI): Congress