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# Copyright

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Royal Decree No. 396 (of April 25, 1988) . . . . . Text 4-01

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## Notifications Concerning Treaties

### Berne Convention

#### New Member of the Berne Union

#### MAURITIUS

The Government of Mauritius deposited, on February 9, 1989, its instrument of accession to the Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886, as revised at Paris on July 24, 1971, with the declaration that it avails itself of the faculties provided for in Articles II and III of the Appendix to the said Convention as so revised.

Furthermore, the said instrument of accession contains the following declaration: "Pursuant to Article 33(2) of the Berne Convention as so revised, the Government of Mauritius declares that it does not consider itself bound by the provisions of paragraph (1) of Article 33 of that Convention."

The Berne Convention, as revised at Paris on July 24, 1971, and amended on October 2, 1979, will enter into force, with respect to Mauritius, on

May 10, 1989. On that date, Mauritius will become the 82nd member of the International Union for the Protection of Literary and Artistic Works ("Berne Union").

In accordance with Article I(2)(b) of the Appendix to the said Convention as revised, the declaration of the Government of Mauritius availing itself of the faculties provided for in Articles II and III of that Appendix will be effective until the expiration of the current 10-year period, that is, until October 10, 1994.

Mauritius will belong to Class VII for the purpose of establishing its contribution towards the budget of the Berne Union.

*Berne Notification No. 123, of February 10, 1989.*

## WIPO Meetings

### Committee of Experts for the Preparation of the Diplomatic Conference for the Conclusion of a Treaty on the International Registration of Audiovisual Works

(Geneva, November 28 to December 2, 1988)

#### NOTE\*

Convened by the Director General of the World Intellectual Property Organization (WIPO), the Committee of Experts for the Preparation of the Diplomatic Conference for the Conclusion of a Treaty on the International Registration of Audiovisual Works (hereinafter referred to as "the Committee of Experts") met in Geneva from November 28 to December 2, 1988.

The following 30 States were represented by delegations at the meeting of the Committee of Experts: Algeria, Austria, Bulgaria, Canada, Czechoslovakia, Democratic People's Republic of Korea, Denmark, Ecuador, Egypt, France, German Democratic Republic, Germany (Federal Republic of), Greece, Hungary, India, Italy, Japan, Madagascar, Mexico, Norway, Poland, Portugal, Republic of Korea, Spain, Switzerland, Tunisia, Turkey, United Kingdom, United States of America, Zaire. Afghanistan was represented by an observer. Representatives of one intergovernmental organization and nine international non-governmental organizations attended the meeting as observers. The list of participants follows this note.

The discussions were based on a document prepared by the Director General containing a draft of the Treaty on the International Registration of Audiovisual Works and the draft of the Regulations to that Treaty, both with explanatory notes. The Committee of Experts also considered the draft of the agenda and the rules of procedure of the diplomatic conference which, in 1989, will be convened to adopt the said Treaty and Regulations.

In the general discussion, the great majority of the delegations and representatives of international non-governmental organizations expressed great interest in, and fully supported, the establishment of the proposed WIPO International Register of Audiovisual Works, although some of them referred to certain details in respect of which they intended to make comments. Reference was made to the fact that such a Register would be a useful

source of information and would increase the security of transactions of rights in audiovisual works all over the world and would assist in combating piracy of such works.

The Committee of Experts then discussed in detail, and agreed upon certain changes to be made in, the Draft Treaty and the Draft Regulations.

#### LIST OF PARTICIPANTS

##### I. States

**Algeria:** S. Abada. **Austria:** A. Längle; T.M. Baier; T. Walentin. **Bulgaria:** M. Popov. **Canada:** J. Gero. **Czechoslovakia:** M. Novotný. **Democratic People's Republic of Korea:** Dok Hun Park; Chol Su Kim. **Denmark:** J. Nerup-Nielsen. **Ecuador:** R. Rivadeneira. **Egypt:** M. Chafic; G.A. Maabad; N. Gabr. **France:** J.-D. Levitte; G. Valter; R. Lecal; J.-C. Benoist; H. Ladsous. **German Democratic Republic:** H. Krökel. **Germany (Federal Republic of):** M. Möller; W. Milzow. **Greece:** A. Cambitsis. **Hungary:** P. Gyertyánfy. **India:** M.T. Vaidya; A. Malhotra. **Italy:** G. Aversa; M. Fabiani; M. Ferrara-Santamaria. **Japan:** M. Kitani. **Madagascar:** M.-F. Narove. **Mexico:** A. Fuchs. **Norway:** J. Holland; J.S. Gulbrandsen. **Poland:** T. Drozdowska. **Portugal:** J.A. Lourenço. **Republic of Korea:** Hee-Chang Yoon; Tae-Chang Choi. **Spain:** T. Garcia Rodriguez. **Switzerland:** R. Grossenbacher; Thu-Lang Tran-Thi; D. du Pasquier. **Tunisia:** H. Tebourbi. **Turkey:** A. Algan. **United Kingdom:** C.B. Lambert; D. Irving; S. Mann. **United States of America:** H.J. Winter; M. Peters; D.R. Patterson; J. Richardson. **Zaire:** N.M. Mantuba.

##### II. Observers

**Afghanistan:** A.M. Shoogufan; M.Q. Amed.

##### III. Intergovernmental Organizations

**Commission of the European Communities (CEC):** R. Martin.

##### IV. International Non-Governmental Organizations

**Association for the International Collective Management of Audiovisual Works (AGICOA):** H.A. Warnier; L.R.E. Catta-

\* Prepared by the International Bureau.

neo; M. Chrusciel. European Broadcasting Union (EBU): M. Burnett. International Bureau of Societies Administering the Rights of Mechanical Recording and Reproduction (BIEM): N. Ndiaye. International Chamber of Commerce (ICC): J.M.W. Buraas. International Confederation of Societies of Authors and Composers (CISAC): N. Ndiaye. International Federation of Associations of Film Distributors (FIAD): G. Grégoire. International Federation of Film Producers Associations (FIAPF): A. Brisson; A. Chaubeau; L. Brennan; R. Ladouceur; J. Rosenfield. International Federation of Phonogram and Videogram Producers (IFPI): E. Orf; E. Thompson. International Secretariat for Arts, Mass Media and Entertainment Trade Unions (ISETU/FIET): J.W. Wilson.

## V. Officers

*Chairman:* P. Gyertyánfy (Hungary). *Vice-Chairmen:* G. Aversa (Italy); M.T. Vaidya (India). *Secretary:* M. Ficsor (WIPO).

## VI. International Bureau of the World Intellectual Property Organization (WIPO)

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

# Developments in 1988 Concerning the Draft Treaty on the Protection of Intellectual Property in Respect of Integrated Circuits

### NOTE\*

Following consideration of a draft Treaty on the Protection of Intellectual Property in Respect of Integrated Circuits (hereinafter referred to as "the draft Treaty") in three sessions of a Committee of Experts, held, respectively, in November 1985, June 1986 and April 1987,<sup>1</sup> the General Assembly of WIPO and the Assembly of the Paris Union decided, on September 30, 1987, on a future program of work in relation to the draft Treaty.

Pursuant to that decision, the International Bureau held consultations with experts from developing countries in January 1988 prior to, and for the purpose of assisting in, the preparation of seven studies and analyses dealing with legal matters concerning intellectual property in respect of integrated circuits. Following the consultations, the International Bureau prepared the seven studies and analyses, bearing the following titles (documents IPIC/S/1 to 7):

- Sui Generis* Approach;
- Definition;
- Object of the Protection: Conditions of Protection;
- National Treatment;
- Scope of Protection;
- Formalities;
- Duration of Protection.

The seven studies and analyses were distributed for comments to the States members of WIPO or the Paris Union, the English text in February 1988, and the French and Spanish texts in March 1988.

Following the distribution of the seven studies and analyses, a Consultative Meeting of Experts from Developing Countries on Integrated Circuits was convened in Geneva from May 24 to 27, 1988, to review and evaluate the comments received from governments on the seven studies and analyses.

The Consultative Meeting, mentioned in the previous paragraph, was followed by a Review Meeting on the Progress of the Preparatory Work for the Diplomatic Conference for the Conclusion of a Treaty on Protection of the Intellectual Property in Respect of Integrated Circuits, which was held in Geneva from May 30 to June 1, 1988. Forty-five States, as well as the Commission of the European Communities, were represented at the Review Meeting.

At the conclusion of the Review Meeting, a decision was adopted that, amongst other things, requested the International Bureau to prepare, for the fourth session of the Committee of Experts:

"(1) one or several documents dealing with the six points identified by the May 24 to 27, 1988, Consultative Meeting of Experts from Developing Countries on Integrated Circuits and further made explicit by the Spokesman of the Group of 77 during the May 31 session;

(2) a document containing a revised version of the draft Treaty presented to the third session of the Committee of Experts, taking into account the discussions of that session, subsequent devel-

\* Prepared by the International Bureau.

<sup>1</sup> For notes on the first, second and third sessions of the Committee of Experts, see *Industrial Property*, 1986, pp. 110 and 373; and 1987, p. 282.

opments in the field and comments received from governments (documents IPIC/CM/1 and addenda). The new version should contain alternative provisions related to the issues mentioned in paragraph (1) and comprehensive explanatory notes with particular reference to the new provisions. The draft should contain a provision to the effect that the form of protection that any contracting party wishes to adopt in its legislation is left to that party, provided that the national legislation is consistent with the future treaty."

The fourth session of the Committee of Experts on Intellectual Property in Respect of Integrated Circuits was held in Geneva from November 7 to 22, 1988. Sixty-one States were represented at that session. In addition, representatives of five inter-governmental organizations and 12 non-governmental organizations participated in an observer capacity.

The discussions of the fourth session of the Committee of Experts were based on the following documents: "Draft Treaty with Explanatory Notes," presented by the Director General of WIPO (document IPIC/CE/IV/2), hereinafter referred to as "the draft Treaty"), "The Six Points Identified by the May 24 to 27, 1988, Consultative Meeting of Experts from Developing Countries," prepared by the International Bureau (document IPIC/CE/IV/3), and "Draft Codicil to the Berne Convention for the Protection of Integrated Circuit Designs," presented by India (document IPIC/CE/IV/5), as well as documents containing proposed amendments to the draft Treaty (documents IPIC/CE/IV/4, 6, 7, 8, 9, 10, 11, 12, 13 and 14) presented by delegations during the fourth session in connection with various articles of the draft Treaty. Copies of these documents, together with the other documents mentioned in this Note, are available from the International Bureau of WIPO.

Simultaneously with the fourth session of the Committee of Experts, a Preparatory Meeting for

the Diplomatic Conference for the Conclusion of a Treaty on the Protection of Intellectual Property in Respect of Integrated Circuits was held in Geneva from November 14 to 22, 1988. Sixty States were represented at the Preparatory Meeting. Four inter-governmental organizations also participated in an observer capacity.

The discussions of the Preparatory Meeting were based on a Memorandum of the Director General of WIPO entitled "Preparations for the Diplomatic Conference" (document IPIC/PM/2). The following matters were discussed at the Preparatory Meeting:

- Substantive documents to be submitted to the Diplomatic Conference;
- States and Organizations to be invited to the Diplomatic Conference;
- Date and venue of the Diplomatic Conference;
- Draft Rules of Procedure of the Diplomatic Conference;
- Wording of the invitations to the Diplomatic Conference; and
- Draft Agenda of the Diplomatic Conference.

It was decided by the Preparatory Meeting that the Diplomatic Conference for the conclusion of a treaty would be held from May 8 to 26, 1989, in Washington.

The invitations for the Diplomatic Conference were issued in December 1988, together with the following two documents in the English, Arabic, French, Russian and Spanish languages:

- Draft Agenda of the Diplomatic Conference (document IPIC/DC/1);
- Draft Rules of Procedure of the Diplomatic Conference (document IPIC/DC/2).

A revised version of the draft Treaty has been prepared by the International Bureau for consideration by the Diplomatic Conference and was published in January 1989.

**Studies**

**Harmonizing Copyright-Contract Conflicts Analyses**

Paul Edward GELLER\*







































## Correspondence

### Letter from Peru

#### Peruvian Copyright and Neighboring Rights Legislation

Gustavo LEÓN Y LEÓN DURÁN\*











## Calendar of Meetings

### WIPO Meetings

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

#### 1989

- February 20 to March 3 (Geneva)**      **Committee of Experts on Model Provisions for Legislation in the Field of Copyright (First Session)**  
 The Committee will consider proposed standards in the field of literary and artistic works for the purposes of national legislation on the basis of the Berne Convention for the Protection of Literary and Artistic Works.  
*Invitations:* States members of the Berne Union or WIPO and, as observers, certain organizations.
- April 3 to 7 (Geneva)**      **WIPO Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights (Eighth Session)**  
 The Committee will review and evaluate the activities undertaken under the WIPO Permanent Program for Development Cooperation Related to Copyright and Neighboring Rights since the Committee's last session (March 1987) and make recommendations on the future orientation of the said Program.  
*Invitations:* States members of the Committee and, as observers, States members of the United Nations not members of the Committee and certain organizations.
- April 10 to 21 (Geneva)**      **Diplomatic Conference for the Conclusion of a Treaty on the International Registration of Audiovisual Works**  
 The Diplomatic Conference will negotiate and should adopt a Treaty on the international registration of audiovisual works and Regulations under that Treaty.  
*Invitations:* States members of WIPO and, as observers, States members of the United Nations not members of WIPO and certain organizations.
- April 24 to 28 (Geneva)**      **Committee of Experts on the Harmonization of Certain Provisions in Laws for the Protection of Inventions (Sixth Session)**  
 The Committee will continue to examine a draft treaty on the harmonization of certain provisions in laws for the protection of inventions.  
*Invitations:* States members of the Paris Union and, as observers, States members of WIPO not members of the Paris Union and certain organizations.
- May 8 to 26 (Washington)**      **Diplomatic Conference for the Conclusion of a Treaty on the Protection of Intellectual Property in Respect of Integrated Circuits**  
 The Diplomatic Conference will negotiate and should adopt a Treaty on the protection of layout-designs of integrated circuits.  
*Invitations:* States members of WIPO or the Paris or Berne Unions and, as observers, States members of the United Nations not members of WIPO or the Paris or Berne Unions and certain organizations.
- May 29 to June 2 (Geneva)**      **WIPO Permanent Committee for Development Cooperation Related to Industrial Property (Thirteenth Session)**  
 The Committee will review and evaluate the activities undertaken under the WIPO Permanent Program for Development Cooperation Related to Industrial Property since the Committee's last session (May 1988) and make recommendations on the future orientation of the said Program.  
*Invitations:* States members of the Committee and, as observers, States members of the United Nations not members of the Committee and certain organizations.
- June 12 to 28 (Madrid)**      **Diplomatic Conference for the Conclusion of a Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks**  
 The Diplomatic Conference will negotiate and should adopt a Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks.

*Invitations:* States members of the Madrid Union, Denmark, Greece, Ireland, the United Kingdom and, as observers, the other States members of the Paris Union as well as certain organizations.

June 26 to July 3 (Paris)

**Berne Union for the Protection of Literary and Artistic Works: Executive Committee (Extraordinary Session)** (sitting together, for the discussion of certain items, with the Intergovernmental Committee of the Universal Copyright Convention)

The Committee will mainly review the activities undertaken and the meetings held since the Committee's last session (June 1987) as far as substantive issues of copyright protection are concerned.

*Invitations:* States members of the Executive Committee of the Berne Union and, as observers, other States party to the Berne Convention and certain organizations.

July 5 to 7 (Geneva)

**Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations: Intergovernmental Committee (Ordinary Session)** (convened jointly with ILO and Unesco)

The Committee will review the status of the international protection of neighboring rights under the Rome Convention.

*Invitations:* States members of the Intergovernmental Committee and, as observers, other States members of the United Nations and certain organizations.

September 25 to October 4 (Geneva)

**Governing Bodies of WIPO and the Unions Administered by WIPO (Twentieth Series of Meetings)**

All the Governing Bodies of WIPO and the Unions administered by WIPO meet in ordinary sessions every two years in odd-numbered years.

In the sessions in 1989, the Governing Bodies will, *inter alia*, review and evaluate activities undertaken since July 1988, and consider and adopt the draft program and budget for the 1990-91 biennium.

*Invitations:* States members of WIPO and the Unions and, as observers, other States members of the United Nations and certain organizations.

September 26 (Geneva)

**Permanent Committee on Industrial Property Information (PCIPI) (Second Session)**

The Committee will discuss its main activities and plans for the future.

*Invitations:* States and organizations members of the Committee and, as observers, certain other States and organizations.

October 9 to 13 (Moscow)

**International Forum on the Role of Industrial Property in Economic Cooperation Arrangements** (organized jointly with the State Committee for Inventions and Discoveries of the Soviet Union)

The Forum will deal with questions of industrial property in joint ventures (among capitalist and socialist countries) and other cooperative economic arrangements (among capitalist and socialist countries), particularly in the field of the transfer of high technology, trade in goods bearing trademarks and franchizing of services.

*Invitations:* The Forum will be open to the public. Participants, other than representatives of governments, will be requested to pay a registration fee.

November 1 and 2 (Beijing)

**Worldwide Symposium on the International Patent System in the 21st Century** (organized jointly with the Chinese Patent Office)

The Symposium will be conducted in three half-day sessions, each dealing with one of the following three topics: internationalization of the patent system; computerization of the patent system; patent documentation, search and examination.

*Invitations:* States members of WIPO, certain intergovernmental organizations and non-governmental organizations having observer status in WIPO.

November 6 to 10 (Geneva)

**Committee of Experts on Model Provisions for Legislation in the Field of Copyright (Second Session)**

The Committee will continue to consider proposed standards in the field of literary and artistic works for the purposes of national legislation on the basis of the Berne Convention for the Protection of Literary and Artistic Works.

*Invitations:* States members of the Berne Union or WIPO and, as observers, certain organizations.

November 13 to 24 (Geneva)

**Committee of Experts on the Harmonization of Certain Provisions in Laws for the Protection of Inventions (Seventh Session)**

The Committee will continue to examine a draft treaty on the harmonization of certain provisions in laws for the protection of inventions.

*Invitations:* States members of the Paris Union and, as observers, States members of WIPO not members of the Paris Union and certain organizations.

## UPOV Meetings

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

**1989**

**April 14 (Geneva)**

**Consultative Committee (Thirty-ninth Session)**

The Committee will mainly discuss the outcome of the twenty-fourth session (April 10 to 13) of the Administrative and Legal Committee and prepare the meeting with international organizations.

*Invitations:* Member States of UPOV.

**October 16 (Geneva)**

**Consultative Committee (Fortieth Session)**

The Committee will prepare the twenty-third ordinary session of the Council.

*Invitations:* Member States of UPOV.

**October 17 and 18 (Geneva)**

**Council (Twenty-third Ordinary Session)**

The Council will examine the program and budget for the 1990-91 biennium, the reports on the activities of UPOV in 1988 and the first part of 1989.

*Invitations:* Member States of UPOV and, as observers, certain non-member States and intergovernmental organizations.

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

### Non-Governmental Organizations

**1989**

**July 10 to 12 (Geneva)**

International Association for the Advancement of Teaching and Research in Intellectual Property (ATRIP): Annual Meeting

**September 26 to 30 (Quebec)**

International Literary and Artistic Association (ALAI): Congress

