

# Copyright

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International Bureaux for the Protection  
of Intellectual Property (BIRPI)

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# INTERNATIONAL UNION

## Information Meeting of International Non-Governmental Organizations

(Paris, March 16, 1970)

### Report

1. The Director of BIRPI, in implementation of paragraph 7(b)(v) of Resolution No. 1 of the Permanent Committee of the Berne Union, adopted in Paris on December 19, 1969, invited to an information meeting the international non-governmental organizations whose activities concern copyright and which are shown in the list attached to this Report (Annex A).

2. This meeting took place in Paris, at Unesco Headquarters, on March 16, 1970.

3. Apart from the information to be given on the Ad Hoc Preparatory Committee entrusted with the preparation of a draft text of the proposals for revision of the Berne Convention, the purpose of the meeting was to appoint seven persons to be invited to attend the meetings of the aforesaid Committee as non-participating observers. The agenda of the meeting appears in document DA/32/1.

4. The meeting was presided over by the representative of the Director of BIRPI, in the presence of the representative of the Director-General of Unesco, who attended the meeting as an observer.

5. Of the twenty-five international non-governmental organizations invited, twenty-one were present or represented. The list of participants is appended to this Report (Annex B).

6. The representative of the Director of BIRPI and the Secretariat gave the meeting full information on the establishment of the Ad Hoc Preparatory Committee, the tasks it would have to accomplish and the role of observers appointed to attend the session of this Committee. They also informed the meeting on the documents which will be presented to the Ad Hoc Preparatory Committee.

7. The meeting proceeded to consider the appointment of seven persons to be invited to attend the meetings of the Ad Hoc Preparatory Committee:

the organizations representing authors unanimously appointed Mr. Léon Malaplate and Mr. Roger Fernay;

the organizations representing publishers unanimously appointed Mr. Dan Lacy or, if he is unable to attend, Mr. Jacques Bourquin;

the organizations representing legal circles working for copyright protection, by a majority vote, appointed Professor Henri Desbois.

8. Before proceeding with the appointment of three persons for the organizations representing users of copyrighted works, the following observations were made:

(i) Mr. Leuzinger, the representative of FIM and ICM, after asking for an elucidation concerning the election procedure, referred to certain difficulties, which, in his opinion,

were bound to be involved in the election of only three representatives to represent all the various types of organizations which can be said to constitute the group of "users of copyrighted works". He also doubted whether the term "users" could be rightly used to identify the interests represented by certain non-governmental organizations;

(ii) Mr. G. Schwaller, the representative of FIAD, made a general reservation concerning the inadequacy of representation by only three persons of the different interests involved;

(iii) Mr. A. Brisson, the representative of FIAPF, supported the statement of the representative of FIAD. On the other hand, he stated that, according to some legislations, producers qualify as authors and that FIAPF for this reason could fall into several groups. However, since he had to make an option, his organization chose the group of users.

(iv) Mr. J. A. L. Sterling, the representative of IFPI, after stating that the term "users" in the phrase "users of copyrighted works" could have a pejorative connotation, inquired whether it could not be changed to describe and reflect the function of many of the organizations invited to the meeting, for example, the phonographic industry and the broadcasting organizations (i. e., the international organizations involved in the diffusion of works of the mind).

9. After an adjournment, Mr. Straschnov, the representative of EBU, referred to the many difficulties which organizations representing users of copyrighted works encountered in designating three persons to represent so many diverse interests. He stated that, despite those difficulties, the organizations concerned had designated: Mr. Ola Ellwyn, Mr. J. A. L. Sterling and Mr. Georges Straschnov.

The following organizations had, however, abstained when the designations were made: AID, FIM, ICM, IFA, IFVA.

10. Furthermore, it was understood that, should one or more of the three persons mentioned above be unable to attend, all the organizations concerned would appoint replacements. The organizations which had abstained when the three persons were designated stated that they would also abstain in the event of a deputy's being appointed.

11. The organizations representing users of copyrighted works finally expressed the unanimous wish that the latter category might have its representation increased to six persons. In view of the diversity of the interests represented by those organizations, it was extremely difficult, if not impossible, to appoint only three persons to defend them.

12. The representative of AID stated that his organization wished to be represented independently, since distribu-

tion by wire was a technical device different from those used by other organizations for the diffusion of intellectual works.

13. The representative of the Director of BIRPI stated, before the close of the debates, that the documents established for the Ad Hoc Preparatory Committee would be transmitted to the seven representatives of the international non-governmental organizations, which had been appointed. These documents could be made available to other organizations upon written request but only in a limited number of copies.

14. At the close of its deliberations, the meeting unanimously agreed that the Report, reflecting the statements made and recording the result of the elections, should be established by the Secretariat and subsequently distributed.

## ANNEX A

### List of the Organizations invited

Asociación Interamericana de Radiodifusión  
 European Broadcasting Union (EBU)  
 International Alliance for Diffusion by Wire (AID)  
 International Association for the Protection of Industrial Property (IAPIP)  
 International Bureau for Mechanical Reproduction (BIEM)  
 International Confederation of Societies of Authors and Composers (CISAC)  
 International Federation of Actors (IFA)  
 International Federation of Film Distributors' Associations (FIAD)  
 International Federation of Film Producers' Associations (FIAPF)  
 International Federation of Journalists (IFJ)  
 International Federation of Musicians (FIM)  
 International Federation of Newspaper Publishers (FIEJ)  
 International Federation of the Phonographic Industry (IFPI)  
 International Federation of Translators (FIT)  
 International Federation of Variety Artistes (IFVA)  
 International Hotel Association (IHA)  
 International Law Association (ILA)  
 International Literary and Artistic Association (ALAI)  
 International Music Council (IMC)  
 International Publishers Association (IPA)  
 International Radio and Television Organization (OIRT)  
 International Union of Cinematograph Exhibitors (UIEC)  
 International Writers Guild (IWG)  
 Internationale Gesellschaft für Urheberrecht (INTERGU)  
 Union of National Radio and Television Organizations of Africa (URTNA)

## ANNEX B

### List of Participants

#### I. International Non-Governmental Organizations

*Broadcasting Union (EBU)*  
 Mr. G. Straschnov, Director, Department of Legal Affairs  
*International Alliance for Diffusion by Wire (AID)*  
 Sir Fitzroy Maclean, President  
 Mr. P. H. Denuit, Secretary-General  
*International Association for the Protection of Industrial Property (IAPIP)*  
 Mr. G. Gaultier, Assistant to the Rapporteur General

*International Bureau for Mechanical Reproduction (BIEM)*

Mr. Jean Elissabide, Secretary-General

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

Mr. Léon Malaplate, Secretary-General

Mr. Jean-Alexis Ziegler, Deputy Secretary-General

*International Federation of Actors (IFA)*

M<sup>me</sup> F. Delahalle, Artiste dramatique

*International Federation of Film Distributors' Associations (FIAD)*

Mr. G. Schwaller, Secretary-General

*International Federation of Film Producers' Associations (FIAPF)*

Mr. A. Brissou, Secretary-General

*International Federation of Musicians (FIM)*

Mr. R. Leuzinger, Secretary-General

*International Federation of Newspaper Publishers (FIEJ)*

Mr. Michel L. de Saint-Pierre, Director

*International Federation of the Phonographic Industry (IFPI)*

Mr. J. A. L. Sterling, Deputy Director-General

Mr. Maurice Lenohle, General Delegate, National Association of the Phonographic Industry and Trade

*International Federation of Variety Artistes (IFVA)*

M<sup>me</sup> F. Delahalle, Artiste dramatique

*International Hotel Association (IHA)*

Mr. J. David, Secretary-General

*International Law Association (ILA)*

Mr. André Françon, Professor at the Faculty of Law and Economic Science, Nanterre

*International Literary and Artistic Association (ALAI)*

Mr. Henri Desbois, Professor at the Faculty of Law and Economic Science, Paris, Permanent Secretary

*International Music Council (IMC)*

Mr. R. Leuzinger, Secretary-General of FIM

*International Publishers Association (IPA)*

Mr. Roger Malicot, Head, Finance Department

*International Union of Cinematograph Exhibitors (UIEC)*

Mr. J. Handl, Legal Adviser

*International Writers Guild (IWG)*

Mr. Roger Fernay, President of the International Copyright Committee

*Internationale Gesellschaft für Urheberrecht (INTERGU)*

Mr. R. Talon, Delegate

*Union of National Radio and Television Organizations of Africa (URTNA)*

Mr. M. Bassiouni, Secretary-General

#### II. Observers

*United Nations Educational, Scientific and Cultural Organization (Unesco)*

Miss M.-C. Dock, Head, Copyright Division

#### III. Secretariat

Mr. Claude Masouyé, Senior Counsellor, Head, External and Public Relations Division

Mr. Vojtěch Strnad, Counsellor, Head, Copyright Division

**Permanent Committee of the International Union  
for the Protection of Literary and Artistic Works (Berne Union)**

Fourteenth Session (Paris, December 15 to 19, 1969) \*

Second Part of the Report - Paragraph 68

*Corrigendum*

The last sentence should read as follows:

“The delegation of Denmark also gave support to the views expressed by the delegation of Canada with regard to the composition of the Preparatory Committee.”

\* See *Copyright*, 1970, pp. 21 *et seq.*

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**NATIONAL LEGISLATION**

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MALTA

**The Copyright Act, 1967**

(No. VI of 1967) <sup>1</sup>

An Act to make new provision in respect of copyright and related matters, in substitution for the provisions of the Copyright Act, 1911

*Short title and commencement*

1. — This Act may be cited as the Copyright Act, 1967, and shall come into force on such date as the Minister may, by notice in the Government Gazette, appoint <sup>2</sup>.

*Interpretation*

2. — (1) In this Act, unless the context otherwise requires —

“broadcasting authority” means the Broadcasting Authority established by section 121 of the Constitution of Malta and any other broadcaster whether licensed under the Broadcasting Ordinance, 1961, or any other law of Malta, and includes a broadcasting contractor operating in Malta;

“author”, in the case of a cinematograph film or sound recording, means the person by whom the arrangements for the making of the film or recording were undertaken, and, in the case of a broadcast transmitted from within any country, means the person by whom the arrangements for the making of the transmission from within that country were undertaken;

“building” includes any structure;

“Board” means the Copyright Board established under section 17 of this Act;

“The Copyright Act, 1911” means the Act of the Parliament of the United Kingdom, referred to in Proclamation No. VI of the 28<sup>th</sup> June, 1912;

“copyright” means copyright under this Act;

“body of persons” means any company or society of persons whether corporate or unincorporate, whether vested with legal personality or not;

“communication to the public” includes, in addition to any public live performance or delivery, any mode of public visual or acoustic presentation, but does not include a broadcast or rebroadcast, and “communicate to the public” shall be construed accordingly;

“copy” means a reproduction in written or graphic form, in the form of a recording or cinematograph film, or in any other material form, so however that an object shall not be taken to be a copy of an architectural work unless the object is a building or model;

“lawful” means done in compliance with the provisions of this Act, and “lawfully” shall be construed accordingly;

<sup>1</sup> Published in the *Supplement to the Government Gazette of Malta*, No. 11,992 of March 3, 1967.

<sup>2</sup> This Act came into force on January 1, 1970, by notification No. 12,355, published in the *Supplement to the Gazette* of December 2, 1969.

“licence” means a lawfully granted licence permitting the doing of an act controlled by copyright;

“Malta” shall have the same meaning as assigned to it in the Constitution of Malta;

“Minister” means the Minister responsible for industry;

“cinematograph film” means the first fixation of a sequence of visual images capable of being shown as a moving picture and of being the subject of reproduction, and includes the recording of a soundtrack associated with the cinematograph film;

“person” includes a body of persons;

“prescribed” means prescribed by regulations made under section 16 of this Act;

“owner of copyright” means the first owner, an assignee or an exclusive licensee, as the case may be, of a copyright;

“sound recording” means the first fixation of a sequence of sounds capable of being perceived aurally and of being reproduced, but does not include a soundtrack associated with a cinematograph film;

“reproduction” means the making of one or more copies of a literary, musical or artistic work, cinematograph film or sound recording;

“broadcast” means broadcast by wireless telegraphy or wire or both but does not include a rebroadcast, and “broadcasting” shall be construed accordingly;

“rebroadcast” means simultaneous or subsequent broadcast by a broadcasting authority of the broadcast of any broadcasting station not under its control, whether situated in Malta or abroad, and includes diffusion of such broadcast over wires, and “rebroadcasting” shall be construed accordingly;

Provided that “later rebroadcast” shall mean only any such subsequent broadcast and “later rebroadcasting” shall be construed accordingly;

“work” includes translations, adaptations, new versions or arrangements of pre-existing works, and anthologies or collections of works which, by reason of the selection and arrangement of their content, present an original character;

“artistic work” means, irrespective of artistic quality, any of the following, or works similar thereto—

- (a) paintings, drawings, etchings, lithographs, woodcuts, engravings and prints;
- (b) maps, plans and diagrams;
- (c) works of sculpture;
- (d) photographs not comprised in a cinematograph film;
- (e) works of architecture in the form of buildings or models; and
- (f) works of artistic craftsmanship, including pictorial woven tissues and articles of applied handicraft and industrial art;

“work of joint authorship” means a work produced by the collaboration of two or more authors in which the contribution of each author is not separable from the contribution of the other author or authors;

“literary work” means, irrespective of literary quality, any of the following, or works similar thereto—

- (a) novels, stories and poetical works,
  - (b) plays, stage directions, choreographic works or entertainments in dumb show, film scenarios and broadcasting scripts,
  - (c) textbooks, treatises, histories, biographies, essays and articles,
  - (d) encyclopaedias and dictionaries,
  - (e) letters, reports and memoranda,
  - (f) lectures, addresses and sermons,
- but does not include any written law, law report or judicial decisions;

“musical work” means any musical work, irrespective of musical quality, and includes works composed for musical accompaniment.

(2) For the purposes of this Act the following provisions shall apply with respect to publication—

- (a) a work shall be deemed to have been published if copies thereof have been made available in a manner sufficient to render the work accessible to the public;
- (b) where in the first instance a part only of a work is published, that part shall be treated for the purposes of this Act as a separate work;
- (c) a publication in any country shall be treated as being a first publication notwithstanding that there has been an earlier first publication elsewhere, if the two publications took place within a period of not more than thirty days.

#### *Works eligible for copyright*

3. — (1) Subject to the provisions of this section the following works shall be eligible for copyright—

- (a) literary works;
- (b) musical works;
- (c) artistic works;
- (d) cinematograph films;
- (e) sound recordings;
- (f) broadcasts.

(2) A literary, musical or artistic work shall not be eligible for copyright unless—

- (a) sufficient effort has been expended on making the work to give it an original character; and
- (b) the work has been written down, recorded or otherwise reduced to material form.

(3) A design or model of manufacture eligible for copyright under this Act shall not, by registration under the Industrial Property (Protection) Ordinance, acquire a term of copyright beyond that specified under subsection (2) of section 4 of this Act.

(4) A work shall not be ineligible for copyright by reason only that the making of the work, or the doing of any act in relation to the work, involved an infringement of copyright in some other work.

#### *Copyright by virtue of nationality or domicile*

4. — (1) Copyright shall be conferred by this section on every work eligible for copyright of which the author or, in

the case of a work of joint authorship, any of the joint authors is, at the time when the work is made, a qualified person, that is to say—

- (a) an individual who is a citizen of, or is domiciled in, Malta; or
- (b) a body of persons constituted and vested with legal personality under the laws of Malta and established in Malta or a commercial partnership registered in Malta in accordance with the provisions of the Commercial Partnerships Ordinance, 1962.

(2) The terms of copyright conferred by this section shall be calculated according to the following table—

<i>Type of Work</i>	<i>Date of Expiration of Copyright</i>
(i) Literary, musical or artistic works other than photographs	Twenty-five years after the end of the year in which the author dies.
(ii) Cinematograph films and photographs	Twenty-five years after the end of the year in which the work was first made accessible to the public by the owner of the copyright therein.
(iii) Sound recordings	Twenty-five years after the end of the year in which the recording was made.
(iv) Broadcasts	Twenty-five years after the end of the year in which broadcast took place.

(3) In the case of an anonymous or pseudonymous literary, musical or artistic work whose term of copyright is established under paragraph (i) of the last preceding subsection the copyright therein shall subsist until the end of the expiration of twenty-five years from the end of the year in which it was first published:

Provided that in the event of the identity of the author becoming known the terms of copyright shall be calculated in accordance with the provisions of paragraph (i) of the last preceding subsection.

(4) In the case of a work of joint authorship, reference in the preceding table to the death of the author shall be deemed to refer to the joint author who dies last, whether or not he is a qualified person.

#### *Copyright by reference to country of origin*

5. — (1) Copyright shall be conferred by this section on every work, other than a broadcast, which is eligible for copyright and which—

- (a) being a literary, musical or artistic work or a cinematograph film, is first published in Malta, or
  - (b) being a sound recording, is made in Malta,
- and which has not been the subject of copyright conferred by section 4 of this Act.

(2) Copyright conferred on a work by this section shall have the same duration as is provided for in section 4 of this Act in relation to the same type of work.

#### *Copyright in works of Government and international bodies*

6. — (1) Copyright shall be conferred by this section on every work which is eligible for copyright and which is made by or under the direction or control of the Government and also such international bodies or other governmental organizations as may be prescribed.

(2) Copyright conferred by this section on a literary, musical or artistic work, other than a photograph, shall subsist until the end of the expiration of twenty-five years from the end of the year in which the work was first published.

(3) Copyright conferred by this section on a film, photograph, sound recording or broadcast shall have the same duration as is provided for by section 4 of this Act in relation to the same type of work.

(4) Sections 4 and 5 of this Act shall not be deemed to confer copyright on works to which this section applies.

#### *Nature of copyright in literary, musical or artistic works and cinematograph films*

7. — (1) Copyright in a literary, musical or artistic work or in a cinematograph film shall be the exclusive right to control the doing in Malta of any of the following acts, namely the reproduction in any material form, the communication to the public, the broadcasting or later rebroadcasting of the whole work or a substantial part thereof, either in its original form or in any form recognisably derived from the original:

Provided that copyright in any such work shall not include the right to control—

- (a) the doing of any of the aforesaid acts by way of fair dealing for purposes of research, private use, criticism or review, or the reporting of current events, provided that if such use is public, it is accompanied by an acknowledgment of the title of the work and its authorship, except where the work is incidentally included in a broadcast or rebroadcast;
- (b) the doing of any of the aforesaid acts by way of parody, pastiche or caricature;
- (c) the inclusion in a film, broadcast or rebroadcast of any artistic work situated in a place where it can be viewed by the public;
- (d) the reproduction and distribution of copies of any artistic work permanently situated in a place where it can be viewed by the public;
- (e) the incidental inclusion of an artistic work in a film, broadcast or rebroadcast;
- (f) the inclusion in a collection of literary or musical works of excerpts from any such work, provided that not more than two excerpts of the works of the same author shall be used in the same collection and that the collection is designed for use in any school or university and includes an acknowledgment of the title and authorship of the work;
- (g) the inclusion of a work in a school broadcast or rebroadcast;
- (h) any use made of a work in any school or university for the educational purposes of that school or university, subject to the condition that, if a reproduction is made

for any such purpose, it shall be destroyed before the end of the period of twelve calendar months after it was made;

- (i) the making of a sound recording of a literary or musical work, as well as the reproduction of such sound recording by the maker or under licence from him, provided that the copies thereof are intended for retail sale in Malta and that such work has already been previously recorded under licence from the owner of the relevant copyright, whether in Malta or abroad, subject to such conditions and to the payment of such compensation as the Minister may prescribe;
- (j) the reading or recitation in public by a person of any reasonable extract from a published literary work if accompanied by a sufficient acknowledgment;
- (k) any use made of a work, other than its reproduction in any material form, by or under the direction or control of the Government, or by such public libraries, non-commercial documentation centres and scientific institutions as may be prescribed, where such use is in the public interest, no revenue is derived therefrom and no admission fee is charged for the communication, if any, to the public of the work thus used;
- (l) the reproduction of a work by or under the direction or control of a broadcasting authority where such reproduction or any copies thereof are intended exclusively for a lawful broadcast or rebroadcast and are destroyed before the end of the period of six calendar months immediately following the making of the reproduction or such longer period as may be agreed between the broadcasting authority and the owner of the relevant copyright in the work:
 

Provided that any reproduction of a work made under this paragraph may, if it is of an exceptional documentary character, be preserved in the archives of the broadcasting authority, but shall not be used for broadcasting, rebroadcasting or for any other purpose without the consent of the owner of the relevant copyright in the work;
- (m) the broadcasting or rebroadcasting of a work already lawfully made accessible to the public with which no licensing body referred to under section 15 of this Act is concerned, subject to the condition that, saving the provisions of this section, the owner of the broadcasting right in the work receives a fair compensation which shall be determined, in the absence of agreement, by the Board;
- (n) the communication to the public of a work, in a place where no admission fee is charged in respect of such communication, by any club whose aim is not profit making;
- (o) any use made of a work for the purpose of a judicial proceeding or of any report of any such proceeding.

(2) Copyright in a work of architecture shall also include the exclusive right to control the erection of any building which reproduces the whole or a substantial part of the work either in its original form or in any form recognisably derived from the original:

Provided that the copyright in any such work shall not include the right to control the reconstruction, in the same style as the original, of a building to which that copyright relates.

#### *Broadcasting of works incorporated in a cinematograph film*

8. — (1) Where the owner of the copyright in any literary, musical or artistic work authorises a person to incorporate the work in a cinematograph film and a broadcasting authority broadcasts or later rebroadcasts the film, it shall, in the absence of any express agreement to the contrary between such owner and person, be deemed that the owner of the copyright authorised such broadcast or later rebroadcast.

(2) Notwithstanding the provisions of subsection (1) of this section where a broadcasting authority broadcasts or later rebroadcasts a cinematograph film in which a musical work is incorporated, the owner of the right to broadcast the musical work shall, subject to the provisions of this Act, be entitled to receive fair compensation from the broadcasting authority.

(3) In the absence of agreement on the compensation payable under the last preceding subsection the amount of such compensation shall be determined by the Board.

#### *Nature of copyright in sound recordings*

9. — Copyright in a sound recording shall be the exclusive right to control in Malta the direct or indirect reproduction of the whole or a substantial part of the recording either in its original form or in any form recognizably derived from the original:

Provided that the provisions of paragraphs (a), (h), (k), (l) and (o) of the proviso to subsection (1) of section 7 of this Act shall apply to the copyright in a sound recording in like manner as they apply to copyright in a literary, musical or artistic work or in a cinematograph film.

#### *Nature of copyright in broadcasts*

10. — Copyright in a broadcast shall be the exclusive right to control the doing in Malta of any of the following acts, namely, the recording and the rebroadcasting of the whole or a substantial part of the broadcast and the communication to the public, in places where an admission fee is charged, of the whole or a substantial part of a television broadcast, either in its original form or in any form recognizably derived from the original:

Provided that —

- (a) the provisions of paragraphs (a), (h), (k) and (o) of the proviso to subsection (1) of section 7 of this Act shall apply to the copyright in a broadcast in like manner as they apply to copyright in a literary, musical or artistic work or a cinematograph film;
- (b) the copyright in a television broadcast shall include the right to control the taking of still photographs from such broadcasts or any rebroadcasts thereof.

#### *First ownership of copyright*

11. — (1) Copyright conferred by sections 4 and 5 of this Act shall vest initially in the author:

Provided that where a work—

(a) is commissioned by a person who is not the author's employer under a contract of service or apprenticeship, or  
 (b) not having been so commissioned, is made in the course of the author's employment,  
 the copyright shall be deemed to be transferred to the person who commissioned the work or the author's employer, subject to any agreement between the parties excluding or limiting such transfer.

(2) Copyright conferred by section 6 of this Act shall vest initially in the Government or such international bodies or other governmental organizations as may be prescribed, and not in the author.

(3) Subject to the provision of the last preceding subsection—

(a) the name on a work purporting to be the name of its author shall be considered as such, unless the contrary is proved;  
 (b) in the case of an anonymous or pseudonymous work, the publisher whose name is indicated in the work as such shall be deemed to be, unless the contrary is proved, the legal representative of the anonymous or pseudonymous author and shall be entitled to exercise and protect the rights belonging to the author under this Act.

#### *Assignments and licences*

12. — (1) Subject to the provisions of this section, copyright shall be transmissible by assignment, by testamentary disposition, or by operation of law, as movable property.

(2) An assignment or testamentary disposition of copyright may be limited so as to apply to some only of the acts which the owner of the copyright has the exclusive right to control, or to a part only of the period of the copyright, or to a specified country or other geographical area.

(3) No assignment of copyright and no licence to do an act the doing of which is controlled by copyright shall have effect unless it is in writing:

Provided that a licence to communicate to the public any work which is subject to copyright may be oral or may be inferred from conduct.

(4) An assignment or licence of copyright granted by a joint author shall have effect as if granted by the other joint authors:

Provided that, where any other joint author is not satisfied with the terms on which such assignment or licence has been granted, he may, within three months from the day on which the said terms have been communicated in writing to him, apply to the Board for the determination by it of such terms as the Board may consider fair and reasonable.

(5) An assignment, licence or testamentary disposition may be effectively granted or made in respect of a future work or an existing work in which copyright does not yet subsist, and the prospective copyright in any such work shall be transmissible as movable property:

Provided that such assignment or licence shall not be deemed to include a copyright which in terms of subsection (1)

of section 11 of this Act vests in the person who commissions the work or in the author's employer, unless the parties expressly include it.

(6) A testamentary disposition of the material on which a work is first written or otherwise recorded shall, unless the testator has provided otherwise, be deemed to include any copyright or prospective copyright in the work which is vested in the deceased.

#### *Infringements*

13. — (1) Copyright shall be infringed by any person who does or causes any other person to do, without a licence from the owner thereof, an act the doing of which is controlled by copyright.

(2) Copyright shall also be infringed by any person who, without the licence of the owner of the copyright, imports into Malta, otherwise than for his private and domestic use, or distributes therein by way of trade, hire or otherwise, or by way of trade exhibits in public, any article in respect of which copyright is infringed under the last preceding subsection.

(3) Where any person infringes the copyright in a work he shall be liable, at the suit of the owner of such copyright, to be condemned by Her Majesty's Commercial Court to the payment of damages or to the payment of a fine of not less than £ 10 nor exceeding £ 500 as the said Court, having regard to the circumstances of the case, may deem proper, and to the restitution of all the profit derived from the infringement of the copyright:

Provided that where the défendant proves to the satisfaction of the Court that at the time of the infringement he was not aware and could not reasonably be expected to be aware that copyright subsisted in the work to which the action relates, the Court shall not condemn him to the restitution of the profit.

(4) The Court may, moreover, in a suit instituted under the last preceding subsection, on the application of the plaintiff, order that all the infringing articles still in possession of the defendant be delivered to the plaintiff.

(5) In an action for infringement of copyright in respect of the construction of a building, no prohibitory injunction or other order shall be made—

(a) after the construction of the building has been begun, so as to prevent it from being completed; or  
 (b) so as to require the building, in so far as it has been constructed, to be demolished.

#### *Prohibition to mutilate or modify a work*

14. — (1) It shall not be lawful for any person, including the assignee of the copyright or a licensee thereunder, without the author's consent, to mutilate or modify any work during its term of copyright in a way prejudicial to the honour or reputation of the author.

(2) Saving the provisions of the last preceding section, any person who contravenes the provision of subsection (1) of this section shall be liable at the suit of the author or his heirs to be condemned by Her Majesty's Commercial Court

to the payment of a fine, as and for damages, of not less than £10 and not exceeding £500.

(3) In any proceedings under the last preceding subsection the Court shall order the destruction of all the infringing articles still in possession of the defendant where it is satisfied that the prejudice caused to the author is so serious as to justify such measure.

(4) The provision of the last preceding subsection shall not apply where the infringing article is a building, but in that case the fine referred to in subsection (2) of this section shall be of not less than £50 and not exceeding £1,000.

#### *Functions of the Copyright Board*

15. — (1) In any case where it appears to the Board that a licensing body or a co-owner —

- (a) is unreasonably refusing to grant a licence in respect of copyright, or
- (b) is imposing unreasonable terms or conditions for the granting of such licence,

the Board may direct that, as respects the doing of any act relating to a work with which the licensing body or the co-owner, as the case may be, is concerned, a licence shall be deemed to have been granted by the licensing body or by the co-owner at the time the act is done, provided the appropriate fees fixed by such Board are paid or tendered before the expiration of such period or periods as the Board may determine.

(2) Saving the provisions of paragraph (m) of the proviso to subsection (1) of section 7 of this Act, the provisions of the last preceding subsection shall not apply where the refusal to grant a licence, or the terms and conditions for the granting of a licence, represent the unanimous decision of all the co-owners.

(3) In this section —

- “licensing body” means an organization which has as its main object, or one of its main objects, the negotiation and granting of licences in respect of copyright works, and includes an individual carrying on the same activity;
- “co-owners” means two or more persons having distinct copyrights in a composite production, namely any production consisting of two or more works.

#### *Regulations and extensions of application of Act*

16. — The Minister shall make regulations prescribing anything which may be prescribed under this Act and may make regulations extending the application of this Act in respect of any or all of the works referred to in subsection (1) of section 3 of this Act —

- (a) to individuals who are citizens of or are domiciled in,
- (b) to bodies of persons constituted and established in or commercial partnerships registered under the laws of,
- (c) to works, other than sound recordings and broadcasts, first published in,
- (d) to sound recordings made in,

a country which is a party to a treaty to which Malta is also a party and which provides for the protection of copyright in works which are protected under this Act.

#### *Copyright Board*

17. — (1) The Minister shall by notice in the Government Gazette appoint a Copyright Board, consisting of a Chairman and two other members for the purpose of performing the functions assigned to such Board by the provisions of this Act.

(2) The Chairman of the said Board shall be a Magistrate of Judicial Police or a person who has practised as an advocate in Malta for a period of, or periods amounting in the aggregate to, not less than seven years.

(3) The Minister shall also appoint two other persons to act as members of the Board, one to replace the Chairman and the other to replace any of the other two members, whenever the Chairman or any of the other members, as the case may be, is, for any reason, unable to carry out his functions.

(4) Every member of the Board shall hold office during the Minister's pleasure and the Minister may, without assigning any reason, revoke the appointment of any member and appoint a new member whenever he deems it to be necessary.

(5) The members of the Board, with the exception of the Chairman if he is a Magistrate of Judicial Police, shall, before entering upon their office, take before the Crown Advocate-General the oath to examine and decide any matter referred to them with equity and impartiality.

(6) The Chairman or any other member of the Board may abstain or may be challenged by any of the contending parties for any of the causes mentioned in section 735 of the Code of Organization and Civil Procedure. Any question regarding any cause of abstention or challenge and any question which is a question of law alone shall be decided by the Chairman of the Board.

(7) The Board shall have the power to summon any person to give evidence or to produce books or other documents before it, and the Chairman of the Board shall have, in regard to the summoning and examining of witnesses before the Board, the same powers as are by the Code of Organization and Civil Procedure conferred on Her Majesty's Civil Court, First Hall.

(8) Proceedings of the Board shall be held in public and the Board's decision shall be notified to the parties by registered post to their respective business or private addresses and, unless the contrary is proved, such decision shall be deemed to have been served on the party concerned not later than the third day succeeding the day when it was posted to such party.

(9) The Minister may make regulations governing proceedings before the Board and, without prejudice to the generality of the foregoing, may make regulations —

- (a) prescribing the manner in which any matter may be referred to the Board;
- (b) prescribing the procedure to be adopted by the Board in dealing with any matter referred to it under this Act and the records to be kept by the Board;

- (c) prescribing the manner in which the Board shall be convened and the place where the Board shall hold its sittings;
- (d) prescribing a scale of costs and fees; and
- (e) generally for the better carrying out of the functions assigned to the Board by this Act.

#### *Appeal from decisions of Copyright Board*

18. — (1) There shall lie a right of appeal from all decisions of the Board.

(2) Any appeal shall be brought before Her Majesty's Court of Appeal by application within fifteen days of service of the Board's decision.

(3) The Board established under section 30 of the Code of Organization and Civil Procedure may make rules concerning appeals to Her Majesty's Court of Appeal under this Act, and prescribing a scale of costs and fees in relation to such appeals.

#### *Costs and fees*

19. — Costs and fees in respect of proceedings before the Board and before Her Majesty's Court of Appeal shall be borne by the parties in such manner as the said Board or Court, as the case may be, shall decide.

#### *Amendment of the Industrial Property (Protection) Ordinance*

20. — The provisions of section 69 of the Industrial Property (Protection) Ordinance shall have effect subject to the amendment shown in the Schedule hereto.

#### *Application to works made before commencement of Act*

21. — This Act shall apply in relation to works made before the commencement of this Act as it applies in relation to works made thereafter.

#### *Repeals*

22. — The Copyright Act, 1911, so far as in force in the law of Malta, shall cease to have such force and the Copyright Act, 1911 (Modification) Ordinance (Chapter 69) shall be repealed on the coming into operation of this Act.

#### SCHEDULE

(Section 20)

In section 69 of the Industrial Property (Protection) Ordinance, immediately after subsection (3) there shall be added the following new subsection:

“(4) The provisions of this section shall have effect subject to the provision of subsection (3) of section 3. of the Copyright Act, 1967.”

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## CORRESPONDENCE

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### Letter from Hungary

A new copyright law was promulgated in Hungary in 1969; it became effective on January 1, 1970 (see *Copyright*, 1969, p. 236). The publication of this law in our Reviews was accompanied by a study of its general principles and essential provisions (*ibid.*, p. 242). This “Letter from Hungary” is therefore limited to judicial decisions taken before the entry into force of the new law.

1. Plaintiff was the ballet master of the Hungarian State Opera. Defendant was the Hungarian State Opera, for which plaintiff composed the choreography for five ballets set to music written by various composers. In connection with these choreographic works, the parties had signed various contracts on different dates fixing plaintiff's fees at between 1 and 1.66 percent of the Opera's gross receipts. The works were performed frequently in Budapest and plaintiff always was paid. The Opera had, however, reserved the right, by contract, to perform these works abroad as well, with its own musicians and dance personnel, but the percentage to be paid to the choreographer on such occasions had not been fixed by contract.

Performances were given abroad during the period 1961-1965. The Hungarian Institute for Cultural Relations had organized these performances with a number of theaters and had entered into the agreements required for this purpose. Plaintiff claimed that he had received his percentages for numerous earlier performances abroad, but not for a further series of such performances. In this lawsuit, plaintiff sought payment of the percentages due to him for these performances.

The trial court found that a series of performances given by defendant's company in a number of European capitals had been prepared by the Institute for Cultural Relations. The Institute had not, however, concerned itself with the financial aspects of these performances. The visits to these foreign countries above all constituted demonstrations of friendship and did not have a lucrative aim. In a number of cities the local theaters had offered the Hungarian performers pocket money and paid their travel costs, but it had not been a question, really, of presenting a bill for services rendered.

The Opera received no payment for these performances. For this reason, defendant did not consider itself obliged to satisfy plaintiff's demands. If plaintiff was entitled to any payment, it was to the foreign theaters that he should address his claim.

Judgment was entered against the Opera in the amount of 20,809 forints for royalties due to the author and court costs. The basis for the judgment was the holding that the provisions of the Civil Code apply to questions of copyright. Article 207 of the Civil Code states that if the parties to a contract fail to stipulate as to a minor point not determined by statute or other legally-binding rule, the courts may read implied terms into the contract in light of its purpose and content and in conformity with the customs and requirements of socialist society. On this basis, the trial court held that the contract contained an implied promise to pay royalties to the author for performances abroad in the same manner as for performances in Hungary.

The trial court further held that, inasmuch as defendant had reserved foreign performance rights and directed operations with its own orchestra and dancers, the State Opera was liable for the royalties. (25 Pf. 27.271/1967)

The trial court ruled that claims for some of the performances were statute-barred and reduced the claims accordingly (in the sum of 4,877 forints).

The Opera appealed on the grounds that the foreign performances, although certainly given by Hungarian artistes, had been organized by foreign theater groups in liaison with the Institute for Cultural Relations, and that the Opera had not obtained any receipts and therefore could not pay royalties. Plaintiff also appealed, seeking an increase in the judgment in the amount of 4,877 forints plus interest, arguing that the trial court had erred in barring claims for a whole series of performances on the basis of the statute of limitations.

The Supreme Court, sitting as an appellate court, dismissed plaintiff's appeal and ordered him to pay costs.

According to the Supreme Court's decision, plaintiff's claim for performances abroad required proof that these performances had in fact been organized by defendant State Opera. After examining the contracts, the Supreme Court felt that, in order to establish that the Opera itself had organized the performances, it was not sufficient to find that the Opera's artistes had participated in these performances. It was essential to show, in every respect, that the State Opera had set up the performances and in particular had taken charge of the technical and financial matters involved in these performances. Yet in each case these performances had been organized by foreign cultural bodies pursuant to the very terms of contracts made by these bodies with the Hungarian Institute for Cultural Relations, one of the principal divisions of the Ministry of Education. Artistes and other collaborators of the Opera had indeed participated in performances on foreign stages, but all costs (travel, subsistence, pocket money) had been met by foreign theaters. The contracts also stipulated that the author's fees would be paid by the foreign party. Neither the Hungarian State nor any other institution — particularly the Opera — had shared in any of the receipts. However, on the basis of the contracts, plaintiff was entitled

to a certain percentage of total receipts as payment for author's rights.

Therefore, plaintiff's position concerning his contractual right to royalties was not valid.

But the trial court erred as regards the statute of limitations. The three-year limitation period covers only cases of copyright infringement. In the present instance, the applicable provision is Article 324, paragraph 1, which places a five-year limitation period on claims for payment of authors' fees.

For these reasons, the trial court's judgment should be vacated and plaintiff's claim dismissed. (Pf. III.20.349/1968/19)

But pursuant to Article 270 of the Ordinance on Civil Procedure, the President of the Supreme Court vetoed this decision, following which the entire matter was reconsidered by the Supreme Court, this time with the full bench of eleven judges sitting.

The full bench set aside the decision of the Supreme Court and amended the judgment of the trial court so that defendant was ordered to pay to plaintiff the sum of 25,088 forints as royalties, plus five percent interest from January 1, 1965, and 3,500 forints towards court costs.

The decision of the full bench contained certain salient points which are of interest. According to Article 49 of the Hungarian Copyright Law (No. LIV of 1921, *Le Droit d'Auteur*, 1922, p. 53), the public performance right belongs exclusively to the author for a period of protection fixed by the Law. Pursuant to Article 50, entertainments in dumb show and choreographic works are in every respect, including public performance, assimilated to dramatic or dramatico-musical works, as the case may be. The Law thus protects copyright in choreographic works and confers upon the author of the work the exclusive right to public performance. The composer has the right to make a contract allowing the company to use his work, and in this way the author is paid for his work.

In all of the contracts between them, defendant assigned to plaintiff the task of composing the choreography for the works performed, in return for royalties on all performances given by the State Opera.

On the basis of these contracts, the Opera felt that it had the right to perform plaintiff's works. It was obviously the intention of the parties that after each performance plaintiff should receive the payment stipulated by contract. The fact that the contracts did not stipulate payment of royalties to the author for foreign performances does not support the conclusion that plaintiff was not really entitled to these royalties. Paragraph 1 of Article 201 of the Civil Code provides that, except where the contract or circumstances of the case strictly allow a conclusion to the contrary, every contractual obligation has its counterpart. Even the Opera's former orchestra conductor, appearing as a witness, testified that he "would never have thought that plaintiff's works would be used 'for nothing', as such an idea could never enter the mind". As regards plaintiff's claims, the fact that the Opera had not drawn any receipts was irrelevant. When the Opera gives a performance under circumstances in which it does not draw receipts, the royalties due to plaintiff must be calculated in a way which will allow the author to receive

appropriate remuneration for his work and execution of his contractual obligations. It results that the contracts between the parties must be interpreted (Article 207, paragraph 3, of the Civil Code) to provide for payment to plaintiff for foreign performances of an amount equal to his average remuneration for performances in the country.

(Paragraph 3 of Article 207 of the Civil Code states: "Where parties to a contract fail to stipulate as to a minor point not governed by a legal rule or other binding provision, the Court — in light of the contract's purpose and content — is authorized to find implied terms and conditions in the contract, in conformity with the customs and, in a general manner, with the requirements of socialist society".)

Defendant Opera has indeed given performances abroad. It is of no importance that, apart from the participation of its artistes, the Opera played no technical or financial role. It follows that the Opera must pay the author the royalties due him. This conclusion is also required by the legal rule which reserves the performance right in favor of the author. The Law protects intellectual works. It is the Opera which obtained from the author the right to perform his works. The Opera therefore owes the duty to pay the royalties. If the Opera had not wished to undertake this obligation, it should have taken steps to shift the burden to a third party.

In vacating the trial court's judgment and dismissing plaintiff's claim, the court of appeal was in error, because it failed to make proper application of the Law.

On these grounds, the full bench of the Supreme Court set aside the ruling of the appellate court and amended the judgment of the trial court in part. (P. törv. eln. tan. 20.129/1969)

2. The trial court had dismissed the suit of a writer on the ground that the writing for which plaintiff sought payment had been produced by him in the course of fulfilling his duties as employee. It resulted that the salary received by plaintiff already constituted payment for his activity. Except where there is an agreement to the contrary, employees are not entitled to separate payment for work done in execution of the contract of employment. The court also found that, even if the claim had been valid, it had become statute-barred.

The judgment was upheld on appeal, although the trial court's ruling as to the statute of limitations was found to be in error.

The Copyright Law of 1921 lays down the following limitations rule as regards liability for copyright infringement and resulting damages: "Actions for the prosecution of the infringement of copyright . . . and for indemnity for damages prescribe in three years" (Article 36). As plaintiff's claim was not for copyright infringement and did not seek damages for infringement, Article 36 was not applicable. The applicable provision in this case is Article 324, paragraph 1, of the Civil Code, which fixes the limitations period at five years. As plaintiff had requested payment from defendant on February 20, 1967, the five-year limitations period had not run, and the trial court had therefore erred in dismissing the claim on this ground. (Supreme Court, Pf. III.20.292/1968)

3. The Hungarian Civil Procedure Ordinance (Article 23, paragraph 1, subparagraph (d)) vests copyright jurisdiction,

not in the lower courts (departmental courts), but in the provincial courts, whatever the amount involved. Consequently, appellate jurisdiction in copyright matters is vested, without exception, in the Supreme Court.

Characterization of a claim often is a difficult matter for the courts. For instance, the question arises whether simple and relatively modest claims by authors for payment must nevertheless be brought in the higher courts. In this connection, the Special Chamber of the Supreme Court has issued a fundamental ruling that, pursuant to relevant legal provisions, copyright jurisdiction extends to litigation arising out of a legal relationship involving creation of a work, its exploitation and protection of its author's rights.

The following paragraph contains a summary of the Supreme Court's reasoning in reaching this decision which gives to copyright litigation the widest possible definition.

According to Article 23, paragraph 1, of the Hungarian Civil Procedure Ordinance, jurisdiction in copyright cases is vested in the provincial courts. However, the law contains no definitions of cases which, pursuant to the said provision, must be considered under the heading of copyright litigation. The definition must therefore be drawn on the basis of the subject matter and nature of the legal relationship in question. The subject matter is the author's creation, that is to say, the work. The chief aim of the applicable legal rules is to encourage the author to create new works in the interest of society as a whole. To achieve this end, the author's material and spiritual well-being is promoted, and his interests in this connection are afforded effective protection. Copyright confers upon the author personal rights (recognition of authorship of a work, protection of the integrity of the work, etc.) and economic rights (reproduction, distribution, etc.). Every infringement of these exclusive rights of the author is unlawful and, according to our legal philosophy, must be subjected to sanctions. Material promotion may be seen in the fact that the author may claim remuneration in proportion to the quality and size of his work. This is also a means to encourage the author to place his work at the disposal of society. The above-mentioned provision of the Civil Procedure Ordinance vests general jurisdiction in copyright litigation in the provincial courts, without limiting the scope of such litigation solely to particular claims made by the author. Among the interests which the legislature had in mind when finding it necessary to elevate this subject matter to the jurisdiction of the provincial courts is the interest in enabling the author to obtain judicial enforcement of his money claims in return for use of his works.

For these reasons, Article 23 of the Civil Procedure Ordinance must be interpreted to mean that all litigation involving creation, use and protection of authors' rights falls within copyright jurisdiction. (Special Chamber of the Supreme Court Judgment No. 942)

4. Decree No. 98/1951/IV.21/M. T. of the Council of Ministers was in force until the end of 1969. Pursuant to Article 7 of the Decree, in the case of a publication contract on a future work, the publisher has the right to refuse reproduction of the work and to rescind the contract unilaterally if the work does not appear to him to be suitable for publication. If the

author, through his own fault, does not adequately modify or complete the work within the time limits fixed, the publisher may then rescind the contract unilaterally. In such cases, the author is not entitled to remuneration, and he must pay back any advance he may have received from the publisher.

The case involved application of this provision. The parties had signed a contract calling for delivery of the manuscript within two years. The author had received an advance of 6,000 forints on account, the balance to be paid upon delivery of the manuscript (1,700 forints per sheet). The manuscript had been delivered within the agreed period, but the publisher had requested alterations. After delivery of the redrafted manuscript, the publisher's readers felt that other changes of a more serious nature were still necessary. The author, however, was no longer willing to make changes in his work. Thereupon, the publisher renounced the contract and demanded reimbursement of the advance. Suit was brought and, after a court-appointed expert made findings in support of the publisher's claim, the trial court ordered the defendant to return the advance.

Defendant thereupon filed an appeal requesting a decision that the advance need not be paid back to the publisher. However, the judgment was upheld by the Supreme Court, which felt that the opinion of the experts was convincing. The Supreme Court also observed on its own that the work was lacking in a number of respects. The Supreme Court therefore agreed with the ruling of the trial court that the publisher had been within his rights in renouncing the contract and demanding reimbursement of the advance. As regards plaintiff's petition to be allowed to reimburse the sum in question in monthly instalments, or to have the sum reduced, the Supreme Court decided to offer plaintiff the possibility of making repayment in fifteen monthly instalments. There could be no question of reducing the sum to be reimbursed, because the Law did not empower the courts to do so. (Supreme Court, Pf. III.20.797/1967)

5. In 1966, the Hungarian Postal Administration had issued a series of stamps illustrating different Hungarian breeds of dogs. The postal services entrusted a designer, first defendant, with the task of preparing the illustrations. In order to ensure an exact representation of the various breeds, the designer was asked to contact the Hungarian Association of Dog Breeders and obtain the information and explanations needed (illustrations, photographs, etc.). On the basis of this material, the artist was supposed to draw his own designs of dog breeds for the planned issue. From an abundant collection, he selected nine photographs for use in his own creative work. In accordance with the order he had been given, he made sketches and submitted them to the Secretary of the Association of Dog Breeders, acting as an expert. The Secretary, while declaring himself to be satisfied, expressed the wish to have some small changes made in one of the illustrations.

First defendant next made designs in color. Some discrepancies could be noticed. Defendant had eliminated the background of the photographs. The coat of one of the dogs was a bit too thick, the tail of another a bit too long. Otherwise, first defendant's designs fully resembled the photographs in

layout, composition, etc. First defendant signed his illustrations and delivered them to second defendant, the Postal Administration, for later use. The Postal Administration paid the artist 15,000 forints for this job. Of this amount, 5,400 forints was for the three works involved in this litigation.

A professional photographer filed suit and claimed that the photographs shown to the first defendant by the Secretary of the Association of Dog Breeders were his work. The Secretary, who had hung these pictures on the wall of his office, had shown them to first defendant without telling him that they were plaintiff's work. However, plaintiff's name appeared on each copy of the photographs.

Plaintiff's complaint, based upon an allegation of slavish imitation of his three photographs, claimed infringement of his copyright and requested injunction of further infringement, suspension of the stamp issue in dispute, destruction of existing stamps or, failing that, designation of plaintiff's name on the stamps, and, finally, an award for damages, with costs taxed to defendants.

Noting in its judgment that first defendant had infringed plaintiff's copyright, the Court enjoined further printing of the stamps, awarded plaintiff 1,000 forints in damages against first defendant, ordered publication of the judgment in a daily newspaper, and taxed first defendant for costs.

The judgment stressed the slavish manner in which the photographs involved had been imitated, resulting in copyright infringement. Defendant's work was not at all creative, as plaintiff's work had not been modified in any significant way. Authorization to use the photographs had not been requested. Plaintiff's photographs enjoyed copyright protection, although they were not artistic in character. The Law, however, does not require photographs to present such a character. The judgment contained a warning to the Postal Administration to be more careful and exercise more control in the future in similar circumstances. Both defendants were taxed costs. (Budapest Court, 25 P. 26.302/1967/14)

6. Plaintiff was the Fine Arts Fund, acting as authorized agent for a woman painter and the heiress of another painter. Both had suffered damages from the fact that works belonging to them and loaned to an exhibition had not been returned to them following the exhibition.

At the Court's request, the Council for the Fine Arts and Handicrafts estimated the value of the respective paintings at 9,000 forints and 4,000 forints. The director of the exhibition did not contest receipt of the paintings, nor did he deny that they had gone astray in an unknown manner. The matter was thus clear, and the Court ordered the exhibitors to pay the Fund 9,000 forints and 4,000 forints for the two owners, plus three percent of the total for the Fund. This additional three percent, amounting to 390 forints, was to pay the Fund for its evaluations.

The judgment was based on the fact that, pursuant to Article 583 of the Civil Code, the borrower is obliged to return the thing borrowed after expiration of the agreed period. Defendant's request for a delay in which to search for the lost works was not granted. (Budapest Court, 25 P. 25.754/1968)



An important problem concerns remuneration of the author. Although remuneration is customary in most cases, it is not generally considered to be an essential element of the contract. This view accords with theory that a contract of publication is based on valuable consideration even where no money payment is stipulated. Going even further, the author of this study takes the position that a contract of publication exists (assuming its essential elements are present) even where the author or his successor in title (*Verlaggeber*) has undertaken to pay a certain sum for printing costs. However, in case of doubt, there is a presumption that the parties have agreed to an appropriate money payment to the author.

Another interesting question examined in this book concerns modification of the manuscript after delivery to the publisher. Mr. Dittrich

believes that such modification is permissible only in certain exceptional cases. One of these involves correction of errors, which is allowed with regard to any manuscript. The other concerns scientific works. Here, the author must account for any last-minute progress or change which may have taken place in the scientific field in question.

The book concludes with two chapters devoted to the problems of assignment by the publisher of publication rights and termination of contractual relations.

The article of the Austrian Civil Code relating to the contract of publication and the full text of the Law on publication rights of the Federal Republic of Germany are reproduced in the book. The reader of this thorough study is aided by an alphabetical index. M. S.

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## CALENDAR

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### BIRPI Meetings

**April 7 to 10, 1970 (Paris) — Joint ad hoc Committee on the International Classification of Patents (3rd Session)**

*Object:* Study of Draft Agreement for the revision of the European Convention on the International Classification of Patents for Invention of December 19, 1954 — *Invitations:* Czechoslovakia, France, Germany (Fed. Rep.), Japan, Netherlands, Soviet Union, Spain, Switzerland, United Kingdom, United States of America — *Observers:* International Patent Institute — *Note:* Meeting convened jointly with the Council of Europe

**April 8 to 10, 1970 (Geneva) — Paris Union Committee for International Cooperation in Information Retrieval Among Patent Offices (ICIREPAT) — Technical Committee IV (Microform) (3rd Session)**

**April 13 and 14, 1970 (Geneva) — ICIREPAT — Technical Committee V (Patent Format and Printing) (3rd Session)**

**April 13 to 17, 1970 (Geneva) — Committee of Experts for the Revision of the Madrid Agreement (Marks)**

*Object:* Study of the revision of the Agreement — *Invitations:* All member States of the Madrid Agreement (Marks); Denmark, Finland, Japan, Norway, Soviet Union, Sweden, United Kingdom, United States of America — *Observers:* African and Malagasy Industrial Property Office, International Association for the Protection of Industrial Property, International Chamber of Commerce, International Federation of Patent Agents

**April 15 to 17, 1970 (Geneva) — ICIREPAT — Technical Committee II (Technical Fields: Forward Planning) (3rd Session)**

**April 20 and 21, 1970 (Geneva) — ICIREPAT — Advisory Board for Cooperative Systems (ABCS) (12th Session)**

**April 20 to 22, 1970 (The Hague) — ICIREPAT — Technical Committee VI (Systems Implementation) (3rd Session)**

**April 22 to 24, 1970 (Geneva) — ICIREPAT — Technical Committee I (Retrieval Systems, Design and Testing) (3rd Session)**

**April 27 to 29, 1970 (Geneva) — Committee of Directors of National Industrial Property Offices of the Madrid Union (Marks)**

*Object:* Finalization and possible adoption of revised Regulations under the Madrid Agreement — *Invitations:* All member States of the Madrid Agreement (Marks)

**April 27, 1970 (Geneva) — Joint ad hoc Committee on the International Classification of Patents — Working Group I (Revision of the Classification) (1st Session)**

*Note:* Meeting convened jointly with the Council of Europe

**April 29, 1970 (Geneva) — Joint ad hoc Committee on the International Classification of Patents — Working Group II (Revision of the Classification) (1st Session)**

*Note:* Meeting convened jointly with the Council of Europe

**April 30, 1970 (Geneva) — Joint ad hoc Committee on the International Classification of Patents — Working Group III (Revision of the Classification) (1st Session)**

*Note:* Meeting convened jointly with the Council of Europe

**May 1st, 1970 (Geneva) — Joint ad hoc Committee on the International Classification of Patents — Working Group IV (Revision of the Classification) (1st Session)**

*Note:* Meeting convened jointly with the Council of Europe

**May 11 to 15, 1970 (Geneva) — Working Group concerning the International Classification of Figurative Elements in Marks**

*Object:* Elaboration of a draft Classification — *Invitations:* Czechoslovakia, Denmark, France, Germany (Fed. Rep.), Netherlands, Rumania, Spain, Sweden, Switzerland, United Kingdom — *Observers:* International Association for the Protection of Industrial Property, International Chamber of Commerce, International Federation of Patent Agents

**May 14 and 15, 1970 (Geneva) — ICIREPAT — Technical Coordination Committee (4th Session)**

**May 19 to 21, 1970 (Geneva) — Ad Hoc Preparatory Committee for the Revision of the Berne Convention**

*Object:* To prepare a draft text of the proposals for revision of the Berne Convention — *Invitations:* France, Germany (Fed. Rep.), India, Italy, Mexico, Tunisia, United Kingdom, Yugoslavia — *Observers:* Kenya, United States of America — *Non-participating Observers:* All other States members of the Berne Union or party to the Universal Copyright Convention; representatives from international non-governmental organizations to be appointed

- May 25 to June 19, 1970 (Washington) — Diplomatic Conference for the Adoption of the Patent Cooperation Treaty (PCT)  
*Object:* Negotiations and Conclusion of the Patent Cooperation Treaty — *Invited with the right to vote:* The member countries of the Paris Union — *Observer States:* Member States of the United Nations and the U. N. Specialized Agencies, not member countries of the Paris Union — *Observer Intergovernmental Organizations:* United Nations, International Labour Organization, United Nations Educational, Scientific and Cultural Organization, United Nations Conference on Trade and Development, United Nations Industrial Development Organization, International Institute for the Unification of Private Law, International Patent Institute, African and Malagasy Industrial Property Office, Commission of the European Communities, Council of Europe, European Free Trade Association, Industrial Development Centre for Arab States, Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents, Latin American Free Trade Association, Organization of American States, Permanent Secretariat of the General Treaty for Central American Economic Integration — *Observer International Non-Governmental Organizations:* Asian Patent Attorneys Association, Committee of National Institutes of Patent Agents, Council of European Industrial Federations, European Industrial Research Management Association, Inter-American Association of Industrial Property, International Association for the Protection of Industrial Property, International Chamber of Commerce, International Federation of Inventors' Associations, International Federation of Patent Agents, Pacific Association for Industrial Property, Union of European Patent Agents, Union of Industries of the European Community
- June 29 and 30, 1970 (Geneva) — Sub-Committee of the Committee of Experts for the International Classification of Goods and Services (Marks)  
*Object:* Consideration of proposals for amendments and additions to the International Classification — *Invitations:* Members of the Sub-Committee
- June 29 to July 3, 1970 (London) — Joint ad hoc Committee on the International Classification of Patents — Working Group V (2<sup>nd</sup> Session)  
*Object:* Supervision of the uniform application of the Classification — *Invitations:* Germany (Fed. Rep.), Netherlands, Soviet Union, United Kingdom, United States of America — *Note:* Meeting convened jointly with the Council of Europe
- July 1 to 10, 1970 (Geneva) — Committee of Experts for the International Classification of Goods and Services (Marks)  
*Object:* Decisions concerning the proposals for amendments and additions to the International Classification — *Invitations:* All member States of the Nice Union — *Observers:* All member States of the Paris Union
- July 13 to 17, 1970 (Geneva) — Joint ad hoc Committee on the International Classification of Patents — Bureau (3<sup>rd</sup> Session)  
*Object:* Supervision and coordination of the activities of the Working Groups — *Invitations:* Czechoslovakia, Germany (Fed. Rep.), Netherlands, Soviet Union, United Kingdom, United States of America — *Observers:* International Patent Institute — *Note:* Meeting convened jointly with the Council of Europe
- September 14 and 15, 1970 (Geneva) — BIRPI Headquarters Building Subcommittee (a Subcommittee of the Interunion Coordination Committee) (2<sup>nd</sup> Session)  
*Object:* Plans for the extension of the Headquarters Building of BIRPI — *Invitations:* Argentina, Cameroon, France, Germany (Fed. Rep.), Italy, Japan, Netherlands, Soviet Union, Switzerland, United States of America
- September 21 to 29, 1970 (Geneva) — Administrative Bodies of WIPO and of the Paris, Berne, Nice and Lisbon Unions (Bodies to be specified later)  
*Object:* Constitution of the new organs on the basis of the entry into force of some of the Stockholm (1967) texts; elections; budget and program; other administrative questions — *Invitations:* Member States of WIPO and the Paris, Berne, Nice and Lisbon Unions — *Observers:* To be announced later
- November 2 to 6, 1970 (Geneva) — Committee of Experts for an Agreement on the Protection of Type Faces
- November 23 to 27, 1970 (Geneva) — Joint ad hoc Committee on the International Classification of Patents — Working Group V (3<sup>rd</sup> Session)  
*Object:* Supervision of the uniform application of the Classification — *Invitations:* Germany (Fed. Rep.), Netherlands, Soviet Union, United Kingdom, United States of America — *Note:* Meeting convened jointly with the Council of Europe
- December 7 and 8, 1970 (Geneva) — ICIREPAT — Technical Coordination Committee (4<sup>th</sup> Session)

## Meetings of Other International Organizations Concerned with Intellectual Property

- April 1 to 3, 1970 (Luxembourg) — Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents — Working Group I (4<sup>th</sup> Session)
- April 2, 1970 (Paris) — International Chamber of Commerce — Commission on International Protection of Industrial Property
- April 7 to 10, 1970 (Luxembourg) — Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents — Working Group III (1<sup>st</sup> Session)
- April 21 to 24, 1970 (Luxembourg) — Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents — 3<sup>rd</sup> Session
- May 3 to 6, 1970 (Istanbul) — International League Against Unfair Competition (LICCD) — Symposium
- May 4 to 6, 1970 (Luxembourg) — Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents — Working Group IV (1<sup>st</sup> Session)
- May 4 to 8, 1970 (Cairo) — Industrial Development Centre for Arab States — Working Group on Industrial Property
- May 4 to 9, 1970 (Asunción) — 8<sup>th</sup> Interamerican Meeting on Copyright
- May 11 to 16, 1970 (Paris) — United Nations Educational, Scientific and Cultural Organization (Unesco) — Ad Hoc Preparatory Committee for the Revision of the Universal Copyright Convention
- June 22 to 27, 1970 (Las Palmas) — International Confederation of Societies of Authors and Composers (CISAC) — 27<sup>th</sup> Congress
- June 30 to July 2, 1970 (The Hague) — International Patent Institute (IIB) — Administrative Council (103<sup>rd</sup> Session)
- July 7 to 9, 1970 (Luxembourg) — Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents — Working Group IV (2<sup>nd</sup> Session)
- September 2 to 5, 1970 (Luxembourg) — Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents — Working Group II (2<sup>nd</sup> Session)
- September 9 to 11, 1970 (Luxembourg) — Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents — Working Group I (5<sup>th</sup> Session)
- October 6 to 8, 1970 (Luxembourg) — Intergovernmental Conference for the Setting Up of a European System for the Grant of Patents — Working Group II (3<sup>rd</sup> Session)
- October 19 to 24, 1970 (Madrid) — International Association for the Protection of Industrial Property (IAPIP) — Executive Committee