

Copyright

Review of the
WORLD INTELLECTUAL PROPERTY
ORGANIZATION (WIPO)

and the United International Bureaux for the
Protection of Intellectual Property (BIRPI)

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BILATERAL AGREEMENTS

BULGARIA—U. S. S. R.

Agreement on the Reciprocal Protection of Copyright concluded between the People's Republic of Bulgaria and the Union of Soviet Socialist Republics *

The Government of the People's Republic of Bulgaria and the Government of the Union of Soviet Socialist Republics, *inspired* by the desire to promote the development of their cooperation in the field of the exchange of cultural values through the exploitation of scientific, literary and artistic works,

recognizing the necessity of establishing rules and conditions governing the reciprocal protection of copyright,

have decided to conclude this Agreement and, to that end, have appointed as their Plenipotentiaries:

— for the Government of the People's Republic of Bulgaria:

Mr. Pavel Matev, President of the Committee of Art and Culture of the People's Republic of Bulgaria,

— for the Government of the Union of Soviet Socialist Republics:

Mr. Boris Ivanovich Stukalin, President of the Press Committee attached to the Council of Ministers of the USSR,

who, having presented their full powers, recognized as in good and due form, have agreed as follows:

Article 1

Each Contracting Party shall

- (a) encourage the publication of scientific, literary and artistic works created by the citizens of the other Contracting Party;
- (b) encourage the theatres, orchestras, musical ensembles and soloists of its country to include in their repertoires dramatic, dramatico-musical, musical and choreographic works created by the citizens of the other Contracting Party.

Article 2

Each Contracting Party shall recognize the copyrights of the citizens of the other Contracting Party in scientific, literary and artistic works first made available to the public in the territory of the other Contracting Party and shall safeguard the said rights in the same conditions as those which its laws provide in respect of its own citizens.

An unpublished work may be made available to the public simultaneously in both countries, or first in the territory of the other Contracting Party, only with the consent of the competent organs of the Contracting Parties.

Article 3

The rights of the heirs of the Bulgarian and Soviet authors of works falling within the scope of this Agreement shall be

protected for fifteen years, to be reckoned from the first of January of the year of the author's death.

Article 4

Royalties accruing under this Agreement shall be subject to taxation only in the country where such royalties are paid to the beneficiary.

Article 5

Copyright royalties shall be calculated in the currency of the country where the work has been utilized.

Article 6

There shall be no obligation to pay copyright royalties for the utilization in the territory of one of the Contracting Parties of a work protected under this Agreement in cases where citizens of the said Contracting Party are not entitled to any remuneration for the same utilization of their works in the territory of the other Contracting Party.

Article 7

The practical implementation of the provisions of this Agreement shall be the task of the Offices for the Protection of Copyright of the Contracting Parties. The two Offices shall, for that purpose, conclude a working agreement in which they shall regulate the questions relating to the transfer of the exploitation rights for works protected under this Agreement, to their cooperation in the field of the protection of the copyrights of their citizens, and to the conditions for payment of royalties due to authors and for the mutual settlement of accounts.

Article 8

This Agreement shall be applicable to every case of utilization of protected works, when such utilization takes place after the entry into force of this Agreement.

Article 9

This Agreement has been concluded for a term of three years; it shall enter into force on January 1, 1972.

Done at Sofia, this eighth day of October, 1971, in duplicate, one being in the Bulgarian and the other in the Russian languages, both texts being equally authentic.

On behalf of the Government
of the People's Republic of
Bulgaria
P. MATEV

On behalf of the Government
of the Union of Soviet Socialist
Republics
B. Iv. STUKALIN

* WIPO translation.

NATIONAL LEGISLATION

BOLIVIA

Supreme Decree

(No. 01068, of February 27, 1948) *

Considering:

That the Supreme Government has approved the Inter-American Convention of June 22, 1946, on the Rights of the Author in Literary, Artistic and Scientific Works, signed by the Plenipotentiaries who agreed to the said Convention; that the National Congress, on June 11, 1947, gave force of law to the provisions of the said Inter-American Convention; that the various Articles of the said Convention refer to a number of prescriptions regarding the domestic legislation of each Contracting State, subject to respect for their juridical forms and standards; and taking into account that only the Law of November 13, 1909, on Literary Property, and its complementary provisions dated January 15 and October 30, 1945, are in force in the Republic of Bolivia, which provisions contain no specific rules governing artistic and journalistic works; by virtue of the first provision of Article 94 of the Political Constitution of the State,

It is decreed as follows:

Article 1. — No literary, scientific or musical work may be performed or published, wholly or in part, without the title or in a form other than that given it by its author, or without the consent of the author or his representative. This provision shall apply to instrumental and dance music and to public performance or delivery by indirect means such as radio broadcasting.

Article 2. — In accordance with paragraph 2 of Article 6 of the Inter-American Convention, articles on current events in newspapers and magazines may be reproduced in the press unless such reproduction is prohibited by a special or general reservation therein, but in any case the source from which they are taken must be cited clearly. The identification of the author by name shall constitute such a reservation. The protection of the author shall not extend to the factual content of news published in newspapers.

Article 3. — Any person wishing to perform or publish a literary, scientific, musical or journalistic work, whether wholly or in part, shall be obliged to obtain the express consent of the author of the work; failure to do so shall make such person liable to the penalties provided for in Article 21 of the Law of January 15, 1945.

The heirs of authors and composers shall enjoy the same rights as the latter with respect to the giving of consent and prosecution in the event of infringements prejudicial to their interests.

Article 4. — Public performance means that given in any place other than a private residence, and inside such private residence when the performance is shown or otherwise communicated outside.

Article 5. — Authors and composers may form associations in accordance with the law in order to allow the publication or public performance of their works by means of the express authorization of the directors and representatives of such associations.

Article 6. — No public institution may either publish, perform or transmit, or record on discs, any work or musical composition without having obtained the prior consent of the author or of the association of which the latter is a member; such authors or composers shall have the right to charge fees for public performance according to their interests.

Article 7. — Legally constituted associations may fix their scales of fees in accordance with their regulations, which shall have been approved by the Executive in accordance with the law; in addition, where publication or public performance has been effected without the requisite prior authorization having been sought, the representatives of the association may institute the respective criminal proceedings before the ordinary courts (*Tribunales Ordinarios*), with a view to the application of the penalties prescribed by Article 21 of the Law of January 15, 1945, and claim damages where appropriate.

Article 8. — Any person who performs or causes to be publicly diffused a literary or musical work must exhibit, in a visible place, the daily program of those works, and send a copy thereof to the authors of the works or their representatives.

Article 9. — The proprietors of public establishments, broadcasting stations, impresarios or their representatives shall enter in a day-to-day record, in the exact order of its performance, the title of each musical work, whether instrumental or vocal, as well as the name of the author and the composer of the music.

These records shall be dated, signed and kept at the disposal of interested parties.

* The Supreme Implementing Decree (*Decreto Supremo Actualizado*) is dated July 21, 1971. It was published in the *Gaceta Oficial de Bolivia* of December 17, 1971. — WIPO translation.

Any person who infringes the provisions of this Article shall be liable to a fine of 500 bolivianos for each instance of failure to complete the record; monies thus received shall be allocated to the cultural development program of the Ministry of Education. Fines shall be collected by the municipal police of the place of infringement, which shall deposit them to the credit of the said Ministry at the Central Bank of Bolivia, where an account entitled "Cultural Development" shall have been opened. The persons responsible for collecting these fines shall issue an appropriate receipt to the infringer.

Article 10. — On the occasion of public holidays and entertainments, municipalities shall be obliged to enact decrees to prevent public establishments or broadcasting sta-

tions from performing literary and musical works without the prior consent of their authors or the representatives of the latter, and to ensure that they abide by the schedules laid down by the associations of authors and composers in accordance with applicable tariffs. The municipalities shall not authorize these activities if the public establishments and broadcasting stations, the impresarios or their representatives have failed to request the prior authorization of the societies of authors and composers for the public performance of the literary and musical works referred to in this Article.

The Minister of State for Education, the Arts and Domestic Affairs shall be responsible for the implementation and enforcement of this Decree.

IRAQ

Law on the Protection of Copyright

(No. 3 of 1971) *

Article 1. — (1) The authors of works created in the field of literature, art and science, whatever their type, mode of expression, size or purpose, shall enjoy the protection granted by this Law.

(2) In the absence of proof to the contrary, the person to whom the work is ascribed, being divulged in his name or in any other manner, shall be deemed to be the author thereof; this presumption shall also apply to pseudonymous works, provided the identity of the author is beyond doubt.

Article 2. — Protection shall extend to works of which the mode of expression is writing, speech, painting, photography or movement, such as:

- (i) written works;
- (ii) works intended for oral communication, such as lectures, teaching courses, addresses, sermons and other works of the same nature;
- (iii) works of drawing, sketching, painting, engraving, sculpture and architecture;
- (iv) dramatic and dramatico-musical works;
- (v) choreographic works intended for performance;
- (vi) musical works with or without words;

- (vii) photographic and cinematographic works;
- (viii) works intended for broadcasting by radio and television;
- (ix) geographical maps, plans and plastic works of scientific nature;
- (x) public readings from the Koran.

Article 3. — Protection shall extend to the title of the work if it is constituted in an original manner and is not obviously derived from the subject of the work.

Article 4. — Any person who arabicizes a work, translates it, revises it or transforms it from one type of literary, artistic or scientific work into some other type, or undertakes to summarize, abridge, modify or explain it, comment on it or include it in a collection in a changed form, shall enjoy the protection granted by this Law, without prejudice to the rights of the author of the original work. However, the rights of the author of a photographic work shall not prevent another person from making photographs of the same subject, even if such other photographs are taken in the same place and under the same conditions as the original photographs.

Article 5. — Performers shall enjoy the protection granted by this Law; a performer is any person who performs the artistic work of another person before the public by singing, dramatic or musical expression, recitation, photog-

* This Law entered into force on January 21, 1971, date on which it was published in the Official Gazette of the Republic of Iraq. — WIPO translation based on the original Arabic text.

raphy, painting, movement or dancing, or in any other manner, without prejudice to the rights of the author of the original work.

Article 6. — Protection shall not apply to:

- (i) collections containing several selected works of poetry, prose or music, or other works, without prejudice to the rights of the authors of each of the works;
- (ii) collections of works which have fallen into the public domain;
- (iii) collections of official documents containing texts of laws or regulations, international treaties, judicial decisions, or any other official texts: provided, however, that such collections shall enjoy protection if they may be distinguished by a characteristic resulting from an innovation in their preparation or any other personal effort which warrants such protection.

Article 7. — The author alone shall have the right to decide upon the publication of his work and to determine the terms and conditions of such. He shall also have the right to exploit his work by such lawful means as he may consider appropriate. No person may exercise this right without the prior consent of the author or of the person on whom the right has devolved.

Article 8. — The right of exploitation belonging to the author shall include:

- (i) the right to publish, broadcast and reproduce the work, and the right to authorize other persons to do so;
- (ii) the right to authorize, within the limits of special conditions to be specified by himself, the use of one or several copies of his work by other persons who provide lending or rental services or exercise any other activity designed to present the work to the public for profit-making purposes or as a contribution to the completion of a project;
- (iii) the right to authorize the public performance of his dramatic or musical work, or its communication to the public by any means;
- (iv) the right to communicate his literary or dramatic works to the public, or to authorize such communication.

Article 9. — The protection of the rights of the author or the translator with respect to the translation of the work into Arabic shall terminate on expiration of a period of three years from the date of first publication of the work if those rights have not been exercised by him, directly or through another person, during that period. Works may be translated into Arabic on expiration of a period of one year from the date on which permission to translate was requested of the author or the persons on whom the right of translation has devolved when the author or the said persons have not undertaken translation during that period.

Article 10. — The author alone has the right to claim authorship of his work; in addition he and his successors in title have the right to oppose any mutilation or modification of his work. However, if mutilation or modification takes

place during translation of the work, the author shall not have the right to oppose it unless the translator has failed to indicate the place in which the mutilation or modification was made, or unless the translation is prejudicial to the reputation of the author or his cultural or artistic standing.

Article 11. — No seizure of copyright may be effected, but the copies of a published work may be confiscated. No confiscation may be made if the author of the work dies before publication thereof, unless it is definitely proved that before his death he intended to publish the work.

Article 12. — When a work has been published, its author cannot object to the performance or recitation thereof before a family gathering, or at private meetings within a society, club or school, provided that such meeting is not organized either directly or indirectly for profit-making purposes. Military bands and other State companies of musicians shall have the right to perform any musical works without payment of royalties, provided that such performance is not organized directly or indirectly for profit-making purposes.

Article 13. — The author may not prevent any person from making a copy of the published work for his personal use.

Article 14. — (1) When a work has been published, its author may not prevent the making of brief analytical reviews or short quotations for critical, polemic, explanatory, educational or informatory purposes, provided that the name of the author, if known, or the source is indicated.

(2) It shall be permissible, in textbooks and in literary, historical, scientific and artistic works:

- (a) to make brief quotations from works published previously;
- (b) to reproduce works published previously in the field of graphic or plastic art or photography, provided that such publications or reproductions are confined to what is necessary for the commentary on the text. In all cases the source and the name of the author must be clearly indicated.

Article 15. — Serialized novels, short stories or other literary, artistic or scientific works may not be reproduced in newspapers and periodicals without the consent of their authors. However, the reproduction by the press of articles on economic, political or religious topics, published in other newspapers and of interest to public opinion, is permitted on condition that reproduction rights have not been expressly reserved. Reproductions must contain a clear indication of their source.

The protection granted by this Law shall not extend to news of the day or to miscellaneous facts having the character of mere information published by the press.

Article 16. — The texts of speeches delivered in the course of political, administrative or judicial proceedings open to the public, or due to be delivered at a general meeting of political character, may be lawfully communi-

cated by the press, radio and television by way of information without the authorization of the author, such speeches being addressed to the public.

Article 17. — In the cases referred to in the two preceding articles, the author alone has the right to publish his speeches and articles in the form of a collection.

Article 18. — Except where the author has expressed wishes to the contrary, his heirs alone have the right to decide on the publication of works which have not been published during the author's lifetime. However, if the author has set a period for publication, the work may not be published before the expiration of such period.

Article 19. — The heirs of the author shall have the exclusive right to exploit economically the rights provided for in Articles 7, 8 and 10 of the Law. In the case of a work of joint authorship, where one of the authors dies without leaving heirs or legatees, his share shall, unless otherwise agreed, devolve upon the other co-authors or their heirs.

Article 20. — Without prejudice to the provisions of Article 9 of this Law, the rights of economic exploitation specified in Articles 7, 8 and 10 shall terminate on expiration of a period of twenty-five years from the date of the author's death, provided that the total protection period may not be less than fifty years from the date of publication of the work. With respect to photographic and cinematographic works which are limited to the mere taking of pictures by technical means, the protection period shall be five years from the date of first publication of the work. With respect to works of joint authorship, the period shall begin on the date of the death of the last surviving co-author. Where one of the co-authors is a public or private legal entity, the period of economic exploitation of rights shall be thirty years from the date of first publication of the work.

Article 21. — The protection provided for in this Law shall not apply to works published without the name or pseudonym of the author. However, if the author or his heirs disclose his identity, protection shall become operative as from the date of such disclosure.

Article 22. — With respect to works published for the first time after the death of the author, the period of protection shall begin on the date of his death.

Article 23. — Where the heirs or their successors in title do not exercise the rights provided for in Articles 18 and 19 of this Law and where the Minister of Information considers that it is in the general interest that the work be published, the Minister may, by registered letter, demand of the heirs or their successors in title that they publish the work in question. If they do not undertake publication within the three months following such demand, the Minister may publish the work without infringing their rights, subject to the payment of fair remuneration.

Article 24. — The work shall be considered published on the date on which it is made available to the public, without regard to the date of any republication, unless, on republication, the author has fundamentally altered the work to the extent that such republication may be considered a new work. Where the work is made up of several parts or volumes published separately on different dates, each such part or volume shall be treated as an independent work for the purposes of the publication date.

Article 25. — Where a number of authors have participated in the creation of a work and the contribution of one author cannot be distinguished from that of the other authors, they shall be deemed equal owners of the work, unless otherwise agreed. In such cases, the rights of the authors cannot be exercised separately by one of them without the consent of the other co-authors. In the event of disagreement, the dispute shall be settled by the Court of First Instance. Each of the co-authors shall have the right to institute legal proceedings in the event of infringement of the copyright.

Article 26. — Where a number of authors have participated in the creation of a work and the contribution of each author to the joint work is distinct from that of the others, each author shall have the right, unless otherwise agreed, to exploit the part corresponding to his contribution, provided that this does not prejudice the exploitation of the joint work.

Article 27. — A collective work is a work created by a group of authors, on their own initiative or under the direction of a natural person or legal entity, in which the contributions of the different authors are incorporated in the joint work directed by that person or entity in such a way that it is impossible to distinguish and determine the contribution of each. The natural person or legal entity that has taken the initiative of creating the work and has directed its creation shall be considered the author of the work and shall alone be entitled to exercise the copyright.

Article 28. — In the case of pseudonymous works, the publisher shall be deemed to have been authorized by the author to exercise the rights provided for in this Law until such time as the author has revealed his name and proved his identity; such declaration may be made by testamentary provision.

Article 29. — Where several authors have collaborated in the creation of vocal musical works, the author of the musical score shall alone have the right to authorize the public performance, the publication or the reproduction of the joint work, but without prejudice to the rights of the author of the text. The latter shall have the right to publish the text but, unless otherwise agreed, he may not use it as the basis of a new musical work.

Article 30. — Where several authors have collaborated in the creation of pantomimes, shows accompanied by music, and in all other similar cases, the author of the non-musical part shall alone have the right to authorize the public performance or the reproduction of the whole work. Unless other-

wise agreed, the author of the musical part shall have the right to dispose of this separately, provided that he does not use it as the basis of another work similar to the joint work.

Article 31. — The following shall be deemed to have collaborated in the creation of a cinematographic work or a work intended for broadcasting on radio or television:

- (i) the author of the scenario or the story written for the program;
- (ii) the author of the adaptation of an existing literary work;
- (iii) the author of the dialogue;
- (iv) the author of the music, if specially composed for the purpose;
- (v) the principal director. If the cinematographic work or the work intended for broadcasting on radio or television is drawn or derived from an existing work, the author of the latter shall be deemed to have contributed to the new work.

Article 32. — The author of the scenario, the author of the adaptation of the literary work, the author of the dialogue and the principal director of the whole work shall jointly have the right to authorize the presentation of the cinematographic work or the work produced for radio or television, notwithstanding objections on the part of the author of the original literary work or of the music, provided that this is in no way prejudicial to the rights deriving from the latter's contribution to the whole work. Unless otherwise agreed, the author of the literary work or of the musical part shall have the right to publish his work by means other than cinema, radio or television.

Article 33. — Where one of the authors collaborating in the creation of a cinematographic work or a work intended for radio or television refuses to complete his contribution, he may not prevent the other authors from using the completed portion of that contribution, provided that this is not prejudicial to the rights deriving from such contribution.

Article 34. — The person who takes the initiative of and responsibility for the creation of a cinematographic work or a work intended for radio or television, and who provides the authors with the material and financial means necessary for its production, shall be deemed to be the maker of that work. The maker shall be regarded as the publisher of the cinematographic work and shall exercise all the rights of a publisher in respect of the film and copies thereof. During the entire period of exploitation of the work the producer shall, unless otherwise agreed, be regarded as the representative of the authors of the cinematographic work or their successors in title with respect to contracts concluded for the public presentation and exploitation of that work, but without prejudice to the rights of the authors of borrowed literary and musical parts.

Article 35. — The official broadcasting and television organizations shall have the right to broadcast or transmit works performed in theaters or in any other public establish-

ment. The managers of such establishments shall permit those organizations to install the technical means necessary for such broadcasts or performances. The organizations are obliged to mention the name of the author and the title of the work, and to pay just compensation to the author or his successors in title and, where necessary, to the person operating the establishment from which the work is broadcast or transmitted.

Article 36. — Unless otherwise agreed, no one who takes a photograph shall have the right to display or publish or put into circulation the original or copies thereof without the authorization of the person represented. This provision shall not apply in cases where the photograph is published on the occasion of public events, or where it concerns an official or a person enjoying a wide reputation, or where the public authorities have authorized publication in the general interest. However, in the foregoing circumstances, the display or circulation of a photograph shall be prohibited if it would cause a prejudice to the honor, reputation or social standing of the person represented. Unless otherwise agreed, the person shown in the photograph may authorize publication of the photograph in newspapers, periodicals and the press in general, even without the consent of the author. These provisions shall apply to all portraits, whatever the medium, such as painting, engraving or sculpture, in which they are executed.

Article 37. — The author alone shall have the right to publish his letters, provided that this right may only be exercised with the authorization of the addressee where publication might prejudice the latter's interests.

Article 38. — The author may assign the rights of exploitation provided for under this Law. However, the assignment of one such right shall not entitle the assignee to make use of another right. Assignment shall be evidenced by a written document indicating clearly and in detail the scope of the rights assigned and the purpose, place and duration of exploitation. The author shall refrain from all acts which might impede the exercise of the right assigned.

Article 39. — The general assignment of future intellectual works of an author shall be void.

Article 40. — Assignment of the rights specified in Articles 7, 8 and 10 of this Law shall be void where it is not effected by the author.

Article 41. — Total or partial assignment by the author of his rights in the work may entitle him to a proportional share in the proceeds of exploitation.

Article 42. — Transfer of the ownership of the original of a work shall not imply assignment of the copyright. However, the person to whom ownership of the original has been transferred may display it in public. Unless otherwise agreed, he may not be obliged to allow the author to reproduce or display it.

Article 43. — Notwithstanding the assignment of his right of economic exploitation, the author alone may, on serious moral grounds, call upon the Court of First Instance so as to obtain withdrawal of his work from circulation or to make fundamental changes to it. In such case the author shall be obliged to pay fair compensation to the third party to whom the right of economic exploitation was assigned. The amount of compensation shall be fixed by the Court, which may order the author either to pay the said compensation within a fixed period, at the end of which period the Court order shall become null, or to furnish a suitable guarantee.

Article 44. — Infringement of any one of the rights granted by this Law shall give rise to the payment of fair compensation to the author owning those rights.

Article 45. — Any person who commits one of the following acts shall be liable to a fine of ten to one hundred dinars:

- (1) infringes the rights provided for in Articles 5, 7, 8, 9 and 10 of this Law;
- (2) sells or circulates infringing works or imports into Iraq, without the consent of the author or his successors in title, works published abroad which enjoy protection under this Law;
- (3) counterfeits in Iraq works published abroad, sells or exports such works or arranges for their exportation. In the case of a second offense the guilty party shall be liable to a maximum of three months' imprisonment and a fine not exceeding three hundred dinars, or to one of these penalties. In the case of a second offense the Court may order the temporary or permanent closure of the establishments used by the infringers or their accomplices. The Court may also order the confiscation of any material which is intended for publication in violation of Articles 5, 7, 8, 9 and 10 and cannot be used for any other purpose, as well as the seizure of all infringing copies.

Article 46. — At the request of the parties concerned and on the basis of a detailed description of the work unlawfully published or republished, the Court of First Instance may order the seizure of the original work and reproductions thereof, and of the materials used for the republication or manufacture of copies of the work, provided that those materials are intended solely for the republication of the work. In the case of public performance or recitation, the Court may order the seizure of the proceeds thereof.

Article 47. — At the request of the owner of the copyright, the Court of First Instance may order the destruction of unlawfully published copies or reproductions of the work and of the materials used for their publication, provided that such materials cannot be used for any other purpose. It may, at the expense of the party responsible, order that the appearance of the copies, reproductions and materials be altered or that they be rendered unusable. The Court shall not order the application of this procedure if the copyright is due

to terminate prior to expiration of a period of two years from the date of the judgment. In such case the procedure shall be replaced by seizure for the remainder of the period. Instead of destruction, the injured party may, within the limits of the compensation to which he is entitled, request the confiscation of the copies of the published work or the reproductions thereof and the material specially intended for republication, the sale of that material and the payment to him of the proceeds of such sale. He may also request the seizure of the proceeds of unlawful performance. In all cases the indemnity shall be considered a privileged claim on the net proceeds of the sale of the articles and on the total amount of the sums seized; no other claim shall take precedence over this one, with the exception of the claim of legal costs and costs incurred in the conservation of the materials and the recovery of the sums involved. In no case may a building be the subject of a seizure under Article 11 of this Law, or be destroyed or confiscated in order to protect the rights of the architect whose plans and sketches have been unlawfully used. At the request of the injured party the Court may, in all cases, order the publication of the judgment, with or without a statement of its reasons, in one or several newspapers or periodicals, at the expense of the party liable for infringement.

Article 48. — Publishers of works intended for publication in several copies shall deposit five such copies with the National Library within the month following publication. Failure to comply with this provision shall make the publisher liable to a fine not exceeding twenty-five dinars. Failure to deposit the required copies shall in no way affect the rights of the author as specified in this Law. The provisions of this Article shall not apply to works published in newspapers or periodicals except where such works have also been published separately.

Article 49. — The provisions of this Law shall apply to works of Iraqi and foreign authors published or performed for the first time within the territory of the Republic of Iraq, and to works of Iraqi authors to be published or performed for the first time in a foreign country. However, works of foreign authors to be published for the first time in a foreign country shall not be protected under this Law in so far as such country does not extend to Iraqi citizens similar protection in respect of their works published or performed for the first time within the territory of the Republic of Iraq, such protection being also provided in the dependent territories of such foreign country.

Article 50. — The Ottoman Law concerning the protection of copyright is abrogated.

Article 51. — Regulations may be promulgated to facilitate the implementation of this Law.

Article 52. — This Law shall enter into force on the date of its publication in the Gazette.

Article 53. — The Ministers shall be responsible for the implementation of this Law.

SWEDEN

Law amending the Law on Copyright in Literary
and Artistic Works

(No. 488 of 1970)

According to this Law, §§ 1, 10, 43, 44, 63 and 65 of the Law on Copyright in Literary and Artistic Works (No. 729 of 1960) shall have the following wording:

§ 1. — A person who has created a literary or artistic work shall have copyright therein, whether it be a fictional or descriptive representation in writing or speech, and whether it be a musical, dramatic, or cinematographic work, a work of fine arts, architecture or applied art, or expressed in some other manner.

Maps and other works of a descriptive nature executed as drawings, engravings, or three-dimensionally, shall be considered literary works.

§ 10. — If a work has been registered as a design according to the rules applicable, copyright may nevertheless be claimed in the work.

Photographic pictures are not subject to copyright under this Act; the right in such pictures is subject to the provisions specially stated.

§ 43. — Copyright shall subsist until the end of the fiftieth year after the year in which the author died or, in the case of the works mentioned in § 6, after the year in which the last surviving author died.

[§ 43, second paragraph, is repealed.]

§ 44. — In the case of a work disseminated without mention of the author's name or generally known pseudonym or signature, the copyright shall subsist until the end of the

fiftieth year after the year in which it was disseminated. If the work consists of two or more continuous parts, the term shall be calculated from the year in which the last part was disseminated.

If the author is named in accordance with § 7 before the end of the aforementioned term, or if it is established that he died before the work was disseminated, § 43 shall apply.

[§ 44, third paragraph, is repealed.]

§ 63. — This Law shall come into force on July 1, 1961. However, § 51 and the provisions in chapters 6 and 8 relating thereto shall come into force, as far as printed reproductions are concerned, on a day to be announced by the King in Council.

§ 65. — Subject to the provisions of §§ 66-69, the new Law shall apply also to literary or artistic work created before it comes into force.

[§ 65, second paragraph, is repealed.]

This Law shall come into force on October 1, 1970.

The new provisions shall apply to a work of artistic handicraft or industrial art which is created before the new Law comes into force and which at that time enjoyed protection under the old provisions, if the work is to be classified among works of applied art; otherwise the copyright shall not expire before the end of September, 1980.

CORRESPONDENCE

Letter from Denmark

by Mogens KOKTVEDGAARD *

The last "Letter from Denmark" — by the late Professor Torben Lund — covered the period 1964-68¹. This survey deals with the years 1969, 1970 and 1971.

1. Legislation

(a) No amendments or alterations to the *Danish Copyright Act* of 1961 have been enacted in the period. On the basis of Nordic cooperation (Denmark, Norway, Sweden and Finland) some changes are, however, on the way. Firstly, minor alterations will be necessary in order to ratify the revised Berne Convention (Stockholm/Paris). In the Danish Act, these alterations will be rather few and will in no way alter the general structure or content of the law. The negotiations on this point have just been completed, and a Bill will presumably be introduced in the Danish Parliament this year or next.

Secondly, a more general revision of the Nordic Copyright Acts is being prepared by a committee of experts from the Nordic countries. This work started in 1970 and meetings have been held in Copenhagen (February 1971), Åbo (September 1971) and Oslo (January 1972). The aim of this revision is primarily to bring the Acts up-to-date — and if possible a little into the future — in regard to the many technical innovations that make modern copyright law so difficult and yet so fascinating. Some of these innovations were well known when the existing legislation was enacted (e.g. photocopying and tape recorders), but they are now of much greater importance. Some are new to law, e.g. electronic data processing (computers), audio-visual recording and presentation systems ("cassette-television"), community antenna television (CATV) and telesatellites.

(b) New Nordic statutes concerning *industrial designs* have been enacted; in Denmark, Act No. 218 of May 27, 1970 (entered into force on October 1, 1970). This Act does not, however, alter the basic principle in Article 10 of the Copyright Act, according to which registration as a design or model does not exclude copyright.

2. Decisions

No judicial decisions with fundamental or far-reaching consequences have been made in the period under review. Among the more important ones three concern the question of the categories of works which may be protected by copyright.

In 1969, the Danish Supreme Court decided that a coffee grinder enjoyed such protection (UfR 1969, p. 851). The grinders, that were made for use in retail shops, were of a

modern streamlined design, presumably inspired by aeroplanes.

In 1970, the Commercial Court of Copenhagen settled a dispute concerning jewellery, *inter alia*, bracelets. Here no copyright was found to exist, although the Danish Courts usually go rather far in protecting applied art and artistic handicraft (UfR 1970, p. 286).

In 1971, the Supreme Court decided that there was no copyright in engineering drawings (UfR 1971, p. 820). The drawings related to house-building and the building company wanted to use the drawings on more than one occasion. This repeated use was found to be not a question of copyright, but one of contractual relations.

Concerning the *droit moral*, in 1969 the High Court of Copenhagen made a decision in a dispute that was typical of the present trend in magazine-publishing. In a weekly magazine a so-called medical article was published concerning sex life, illustrated by a photograph of a sculpture of a young woman and young man in the nude. The sculptor claimed that this was a violation of Article 3 of the Copyright Act according to which a work may not be made available to the public in a manner or in a context which is prejudicial to the author's literary or artistic reputation. Judgment was given in favor of the publisher (UfR 1969, p. 544), mainly because the article was matter-of-fact and sober.

By far the most important occurrence in the period — an occurrence which was, however, not brought before the Courts of law — was a feud between *Danmarks Radio*, the Danish Broadcasting Corporation, a State-owned monopoly, and the Danish Union of Journalists. The event was of great importance not only because of the legal principles involved, but also because it brought the whole concept of copyright law into public debate.

Between *Danmarks Radio* and the Union there was an agreement stipulating, *inter alia*, that copyright in the programs belonged to the journalists, always provided that *Danmarks Radio* had the right to broadcast the programs by radio and television. The journalists had the right to use the contents of the programs outside radio and television subject to previous consent being granted by the broadcasting organization. Now on the expiration of this agreement, *Danmarks Radio* requested that the journalists renounced their right, this being presumably of importance not only as a principle, but also for practical reasons, *inter alia*, the future production of "cassette-television". The Union of Journalists refused and after lengthy negotiations went on strike, almost closing down *Danmarks Radio* for about a month. The strike was not

* Professor at the University of Copenhagen.

¹ See *Copyright*, 1969, p. 122.

a popular one, but in the end the Union had its way, giving only minor concessions to the broadcasting organization. These were *inter alia* that programs may be transferred free of charge for humanitarian purposes, and for a consideration for purely educational purposes. Furthermore, it was agreed

that *Danmarks Radio* and the Union set up a committee with equal representation of the parties to discuss the possibilities of further assignment of copyright to *Danmarks Radio*. This may be regarded as a very important event in the perpetual copyright-battle between employers and employees.

INTERNATIONAL ACTIVITIES

International Literary and Artistic Association (ALAI)

(Working Session, Paris, July 3 to 8, 1972)

From July 3 to 8, 1972, the International Literary and Artistic Association (ALAI) held a "Working Session" at the building of the "Société des Gens de Lettres", Hôtel de Massa, in Paris. The meeting was equivalent to a congress but, in view of the recent death of Marcel Boutet, the ALAI had decided to dispense with the ceremonial that usually accompanies congresses. There was nevertheless a large attendance and the ALAI national groups sent delegations from the following countries: Belgium, France, Germany (Federal Republic), Greece, Italy, Netherlands, Sweden, Switzerland. WIPO was represented, as observer, by Mr. Claude Masouyé, Senior Counsellor, Head, External and Public Relations Division, while Unesco was represented by Miss Marie-Claude Dock, Head, International Copyright Information Centre, and Mr. Daniel de San, Lawyer, Copyright Division.

The deliberations were chaired by Professor Henri Desbois, President of ALAI.

The agenda included the following matters:

- discussion on the July 1971 revisions of the Berne Convention and of the Universal Copyright Convention;
- discussion on the Convention, adopted at Geneva in October 1971, on the Protection of Producers of Phonograms against Unauthorized Duplication of Their Phonograms;
- discussion on problems relating to the protection of signals transmitted by space satellites;
- rental of books and records;
- new means of audio-visual exploitation of intellectual works, such as video-cassettes, video-discs, etc.
- photocopying and copyright;
- "droit de suite";
- protection of computer programs.

Reports were presented on these various subjects and, at the end of the deliberations, ALAI adopted voeux and resolutions, the text of which is reproduced below.

The ALAI Secretariat, under the direction of Professor André Françon, Permanent Secretary, intends to publish at a later date a detailed account of this Working Session.

Voeux

Voeu No. 1 on the Universal Copyright Convention, as revised at Paris in 1971

The International Literary and Artistic Association, at its Working Session held from July 3 to 8, 1972,

having examined the provisions of the Universal Copyright Convention as revised at Paris in 1971,

1. notes in particular with satisfaction that the suggestions made during the ALAI Symposium in 1970 concerning the provision of additional or complementary time-limits within the context of Articles V^{ter} and V^{quater} have been adopted;
2. calls the attention of the developed countries to the clause in Article IV^{bis} requiring that, in any case, a reasonable degree of effective protection be granted to copyright;
underlines, therefore, as absolutely necessary that in no case should the said countries invoke the special treatment which Articles V^{ter} and V^{quater} reserve for the developing countries alone;
3. calls attention, on the one hand, to the difficulties of interpreting and coordinating Article V^{ter}, paragraph 8(a)(iii), and Article V^{quater}, paragraph 3(b), concerning broadcasting and, on the other hand, to the fact that the translation or reproduction licenses for which they provide do not in any way affect the broadcasting right of the author.

Voeu No. 2 on the Paris Act revising the Berne Convention

The International Literary and Artistic Association, at its Working Session held from July 3 to 8, 1972,

having examined the provisions of the Paris Act (1971) of the Berne Convention, takes note of the new status included in that Act for the ben-

efit of developing countries and refers to the observations made in connection with the similar provisions contained in the Universal Copyright Convention as revised at Paris,

having furthermore reviewed the substantive provisions which were framed in 1967 at Stockholm and have been embodied without amendment in the said Act,

recalls the observations already made by it in respect of them and, in particular, firmly expresses the opinion that, taken together, the three conditions set forth in Article 9, paragraph (2), of the Paris Act imply that the countries of the Union must exercise in a very restrictive way the possibility afforded to them of granting exceptions from the exclusive right of reproduction which is recognized as being the author's.

Voeu No. 3 on the Convention for the Protection of Producers of Phonograms against Unauthorized Duplication of Their Phonograms

The International Literary and Artistic Association, at its Working Session held from July 3 to 8, 1972,

having examined the provisions of the aforementioned Convention, does not see, from the aspect of the interest of authors, any fundamental objection to be expressed regarding this new international instrument;

underlines, nevertheless, the difficulties of coordination as between the systems offered to contracting States for applying the Convention, because of the diversity of their respective legal systems and in particular the different terms of protection provided for therein.

Voeu No. 4 on the rental of books and records

The International Literary and Artistic Association, at its Working Session held from July 3 to 8, 1972,

having heard several reports on the legal problems arising from the rental and lending of books and records,

calls attention to the need for such rental and lending, which are desirable for the promotion of culture, nevertheless not to jeopardize the interests of authors;

considers that recourse should be had to the most appropriate methods for protecting the said interests without harming those of the public, on the basis either of systems already in application, for example in the Scandinavian countries or in the Netherlands, or of those envisaged in other countries, in particular in the Federal Republic of Germany.

Voeu No. 5 on new means of audio-visual exploitation of intellectual works

The International Literary and Artistic Association, at its Working Session held from July 3 to 8, 1972,

having heard several reports on the legal problems arising from new means of audio-visual exploitation of works fixed on devices offered to the public (video-cassettes, video-discs, etc.),

expresses the opinion that, regardless of the diversity of views in relation to the legal nature of works fixed upon such devices, it is necessary to ensure, within the context of the existing multilateral conventions, that copyright is maintained in all forms of exploitation or utilization, even private.

Voeu No. 6 on photocopying

The International Literary and Artistic Association, at its Working Session held from July 3 to 8, 1972,

having heard several reports on the use of photocopying to reproduce works protected by copyright,

having regard to the prejudice which such use causes to publishing, in particular to scientific periodicals and works,

calls attention to the urgent need for legislators and courts to react against the development of these practices of the extent that they disregard the legitimate interests of authors.

Voeu No. 7 on "droit de suite"

The International Literary and Artistic Association, at its Working Session held from July 3 to 8, 1972,

having heard a report on the present status of "droit de suite" in the world,

fully aware of the major interest which "droit de suite" represents for all artists and their heirs,

decides to associate itself with any effort made to achieve internationalization of this right, so that its efficacy may be better assured.

Resolutions

Resolution No. 1 on the protection of signals transmitted by space satellites

The International Literary and Artistic Association, at its Working Session held from July 3 to 8, 1972,

having heard reports on the results and resolution of the second committee of governmental experts concerning the protection of signals transmitted by space satellites,

confirms its interest in this question and in its evolution for the benefit of authors,

and, until such time as it can make its observations known, retains it on its agenda.

Resolution No. 2 on the International Copyright Information Centre

The International Literary and Artistic Association, at its Working Session held from July 3 to 8, 1972,

having heard a communication from the representative of Unesco, takes note with satisfaction that that Organization has established the International Copyright Information Centre and welcomes the efforts made by the Centre, in correlation where appropriate with national centres, to facilitate access to intellectual works for developing countries in full observance of literary and artistic property.

Resolution No. 3 on the International Book Year

The International Literary and Artistic Association, at its Working Session held from July 3 to 8, 1972,

having heard a communication from the representative of Unesco on "1972, International Book Year",

welcomes the initiative taken by that Organization and, within the context of its activities, associates itself with that program which aims at the promotion of culture in full observance of copyright.

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¹ See *Copyright*, 1972, p. 105.

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CALENDAR

WIPO Meetings

- August 29 to September 8, 1972 (London) — International Patent Classification (IPC) — Working Group II of the Joint ad hoc Committee
- September 11 to 15, 1972 (London) — International Patent Classification (IPC) — Working Group V of the Joint ad hoc Committee
- September 20 to 22, 1972 (Geneva) — ICIREPAT — Plenary Committee
- September 21 and 22, 1972 (Geneva) — Intergovernmental Committee Established by the Rome Convention (Neighboring Rights) — Extraordinary Session
Object: Consideration of various questions concerning neighboring rights — *Invitations:* Brazil, Denmark, Germany (Fed. Rep.), Mexico, Niger, United Kingdom — *Observers:* Congo, Costa Rica, Czechoslovakia, Ecuador, Fiji, Paraguay, Sweden; intergovernmental and international non-governmental organizations concerned — *Note:* Meeting convened jointly with the International Labour Office and Unesco
- September 25 to 30, 1972 (Geneva) — Coordination Committee of WIPO, Executive Committees of the Paris and Berne Unions, Assemblies of the Madrid, Lisbon and Locarno Unions
- September 26 to October 6, 1972 (Berne) — International Patent Classification (IPC) — Working Group IV of the Joint ad hoc Committee
- October 2 to 9, 1972 (Geneva) — Patent Cooperation Treaty (PCT) — Interim Committees and Standing Subcommittee of the Interim Committee for Technical Cooperation
Members of the Interim Committees: Signatory States of the PCT — *Observers:* Intergovernmental organizations and international non-governmental organizations concerned; *Members of the Standing Subcommittee:* Austria, Germany (Fed. Rep.), Japan, Netherlands, Soviet Union, Sweden, United Kingdom, United States of America, International Patent Institute — *Observer:* Brazil
- October 9 to 13, 1972 (Munich) — ICIREPAT — Technical Committee for Standardization
- October 16 to 20, 1972 (Nairobi) — African Seminar on Intellectual Property
- October 16 to 20, 1972 (Geneva) — ICIREPAT — Technical Committee for Computerization
- October 23 to 27, 1972 (Geneva) — ICIREPAT — Technical Committee for Shared Systems
- October 23 to 27, 1972 (Geneva) — ICIREPAT — Advisory Board for Cooperative Systems
- October 30 to November 3, 1972 (Geneva) — Committee of Experts on a Patent Licensing Convention
Object: Study of problems concerning the transfer of technology to developing countries and patent licensing — *Invitations:* Algeria, Argentina, Brazil, Chile, Colombia, Czechoslovakia, Egypt, France, Germany (Fed. Rep.), India, Indonesia, Iran, Japan, Kenya, Mexico, Pakistan, Philippines, Senegal, Soviet Union, Spain, Sudan, Sweden, Switzerland, Thailand, United Kingdom, United States of America, Venezuela, Zaire — *Observers:* Intergovernmental and international non-governmental organizations concerned
- November 20 to 25, 1972 (Munich) — International Patent Classification (IPC) — Bureau of the Joint ad hoc Committee
- November 28 to December 1, 1972 (Munich) — International Patent Classification (IPC) — Joint ad hoc Committee
- December 13 to 15, 1972 (Geneva) — ICIREPAT — Technical Coordination Committee
- February 12 to 16, 1973 (London) — International Patent Classification (IPC) — Working Group V of the Joint ad hoc Committee

March 20 to 30, 1973 (*) — International Patent Classification (IPC) — Bureau of the Joint ad hoc Committee

April 2 to 6, 1973 (*) — International Patent Classification (IPC) — Joint ad hoc Committee

April 9 to 13, 1973 (Geneva) — Committee of Experts on a Model Law for Developing Countries on Appellations of Origin

Object: To study a Draft Model Law — *Invitations:* Developing countries members of the United Nations — *Observers:* Intergovernmental and international non-governmental organizations concerned

May 7 to June 2, 1973 (Vienna) — Diplomatic Conference on: (a) the International Registration of Marks, (b) the International Classification of the Figurative Elements of Marks, (c) the Protection of Type Faces

June 4 to 8, 1973 (*) — International Patent Classification (IPC) — Working Group I of the Joint ad hoc Committee

June 18 to 22, 1973 (*) — International Patent Classification (IPC) — Working Group II of the Joint ad hoc Committee

July 2 to 6, 1973 (*) — International Patent Classification (IPC) — Working Group III of the Joint ad hoc Committee

July 9 to 13, 1973 (*) — International Patent Classification (IPC) — Working Group IV of the Joint ad hoc Committee

September 10 to 14, 1973 (*) — International Patent Classification (IPC) — Working Group V of the Joint ad hoc Committee

September 24 to October 2, 1973 (Geneva) — Administrative Bodies of WIPO (General Assembly, Conference, Coordination Committee) and of the Paris, Berne, Nice and Lishon Unions (Assemblies, Conferences of Representatives, Executive Committees)

October 29 to November 2, 1973 (*) — International Patent Classification (IPC) — Bureau of the Joint ad hoc Committee

November 5 to 9, 1973 (*) — International Patent Classification (IPC) — Joint ad hoc Committee

* Place to be notified later.

UPOV Meetings

October 10 and 11, 1972 (Aarslev) — Technical Working Party for Vegetables

November 7 to 10, 1972 (Geneva) — Diplomatic Conference

Object: Amendment of the Convention

November 8 and 9, 1972 (Geneva) — Council

December 5 to 7, 1972 (Geneva) — Working Group on Variety Denominations

March 13 and 14, 1973 (Geneva) — Technical Steering Committee

July 2 to 6, 1973 (London/Cambridge) — Symposium on Plant Breeders' Rights

Meetings of Other International Organizations concerned with Intellectual Property

October 9 to 11, 1972 (The Hague) — International Patent Institute — Administrative Council

October 13 to 21, 1972 (Mexico) — International Confederation of Societies of Authors and Composers — Congress

October 16 to 27, 1972 (Brussels) — European Economic Community — "Community Patent" Working Party

November 12 to 18, 1972 (Mexico) — International Association for the Protection of Industrial Property — Congress

December 11 to 15, 1972 (The Hague) — International Patent Institute — Administrative Council

February 13 to 23, 1973 (Brussels) — European Economic Community — "Community Patent" Working Party

May 20 to 26, 1973 (Rio de Janeiro) — International Chamber of Commerce — Congress