Published monthly
Annual subscription:
fr.s. 130.—
Each monthly issue:
fr.s. 13.—

Copyright

20th year — No. 10
October 1984

Monthly Review of the
World Intellectual Property Organization (WIPO)

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ISSN 0010-8626

World Intellectual Property Organization

Workshop on the Law of Intellectual Property

(Maseru, August 20 to 24, 1984)

Introduction

1. The Workshop on the Law of Intellectual Property organized by the Government of Lesotho, through the National University of Lesotho (NUL), and the World Intellectual Property Organization (WIPO) was held at Maseru from August 20 to 24, 1984.

2. Specialist participants from Botswana, Lesotho, Malawi, Mauritius, Mozambique, Swaziland, Tanzania, Zambia and Zimbabwe attended the Workshop in addition to the Director of the Industrial Property Organization for English–Speaking Africa (ESARIPO) and observers from the African National Congress (ANC), the International Development Research Centre (IDRC)(Canada), the Swedish International Development Authority (SIDA) and the Southern African Copyright Protection Society (SACOPS). The participants were mainly government officials, university faculty members, mostly from the law and economics faculties, as well as from the trade sector.

3. Guest speakers included the Director of the Industrial Property Organization for English–Speaking Africa (ESARIPO), the Dean of the Faculty of Law, National University of Lesotho (NUL), university faculty personnel from the National University of Lesotho (NUL) and from the Universities of Malawi and Swaziland, the Director, Division of International Affairs, Swedish Ministry of Justice, and the Director, Lesotho Dispensary Association.

4. The list of participants is annexed to this Note.

Opening of the Workshop

5. The Workshop was inaugurated by the Honorable Mr. J.R.L. Kotsokoane, Minister for Education, Sports and Culture, Government of Lesotho, in the presence of a distinguished gathering which included the Minister for Justice, the Solicitor–General, a Judge of the High Court, the Permanent Secretary, Ministry of Education, the Vice Chancellor and the Pro–Vice Chancellor (National University of Lesotho (NUL)), diplomats and Resident Representatives of the United Nations Development Programme (UNDP), the United Nations Food and Agricultural Organization (FAO) and the United Nations High Commissioner for Refugees (UNHCR).

6. Dr. A.M. Maruping, Pro–Vice Chancellor, National University of Lesotho (NUL), chaired the opening session; the Vice Chancellor, Mr. B.A. Tlelase, welcomed the participants. The opening address was delivered by the Honorable Minister for Education, Sports and Culture and the response to it by the representative of the Director General of the World Intellectual Property Organization (WIPO).

7. The Solicitor–General of Lesotho, Mr. M.A. Ntlhoki, delivered the keynote address.

Election of the Chairman

8. Upon a proposal by Prof. Umesh Kumar (Dean, Faculty of Law, National University of Lesotho (NUL)), seconded by Mr. A.R. Zikonda (Zambia) and Mr. A.G. Pillay (Mauritius), the participants unanimously elected Mr. M.A. Ntlhoki, Solicitor–General of Lesotho, as Chairman of the Workshop.

Substantive Deliberations

9. In accordance with the program, papers were presented on various aspects of industrial property and of copyright and neighboring rights.

10. Much interested and informed discussion followed the presentation of various papers.

11. Each of the participants from the countries invited presented a status paper on the law of intellectual property and its implementation in his country.

12. At the end of the deliberations, the participants to this first Workshop on Intellectual Property for countries of the Southern African Development Coordination Conference (SADCC) and the Preferential Trade Area for Eastern and Southern African States (PTA)

(i) expressed their gratitude to the Government of Lesotho and the National University of Lesotho (NUL) for having hosted the Workshop and for their hospitality,

(ii) expressed their deep appreciation to the World Intellectual Property Organization (WIPO) for having convened the Workshop jointly with the Government of Lesotho and the National University of Lesotho (NUL), and for the very useful papers presented by its officials and by the guest speakers invited by it, which led to a fruitful exchange of views at the meeting and considerably helped in enhancing awareness of the issues involved.

13. The participants also particularly expressed their deep gratitude to the World Intellectual Property Organization (WIPO), the International Development Research Centre (IDRC)(Canada), the Swedish International Development Authority (SIDA) for their various financial and other contributions which have made it possible to organize a truly international workshop.

Conclusions

14. Considering the special problems faced by the participating countries, the following broad conclusions emerged from the discussions:

14.1 An adequately framed and independent intellectual property system, supported by the necessary infrastructure, would be beneficial for the economic and cultural development of Southern African countries.

14.2 National legislation in the field of industrial property (patents, trademarks, industrial designs) and of copyright and neighboring rights designed to meet the needs of the Southern African countries present should, in countries which had not yet enacted national legislation in these fields, be promulgated to provide for an appropriate and up–to–date national legislation that would be the most suitable nationally as well as compatible regionally and internationally, and that countries where such legislation was considered inadequate or obsolete should amend it so as to bring it up to date.

14.3 In framing such national legislation, due regard should be given to the special conditions, compulsions and requirements in the region, as well as those obtaining in each of the countries concerned. Such national legislation should also take into account the relations between intellectual property law and existing international instruments in the economic field, in particular the Southern African Customs Union.

14.4 Particular attention should be paid to the advantages that could be derived from regional cooperation in the establishment and implementation of intellectual property laws, in particular within the framework of the Southern African Development Coordination Conference (SADCC) and the Preferential Trade Area for Eastern and Southern African States (PTA); countries of the Southern African Development Coordination Conference (SADCC) and the Preferential Trade Area for Eastern and Southern African States (PTA) should be encouraged to include the question of intellectual property laws in the program of their future activities.

14.5 Meanwhile, the World Intellectual Property Organization (WIPO) should, within the framework of its programs for development cooperation, continue to provide legal technical assistance to national authorities in the drafting, revising or updating of intellectual property legislation, in the training of specialized personnel and in the setting up of suitable infrastructures.

14.6 Bearing in mind the particular advantages of international cooperation in the field of intellectual property law, the participants were of the opinion that the countries of the region which had not yet done so should, taking into account the special conditions prevailing in respect of each country, consider adherence to international conventions in these fields. National legislation, when adopted for the first time or when amended, should, *inter alia*, cater for such possible adherence.

14.7 Appropriate and cost–effective administrative infrastructures should be established in order to ensure an efficient application of national

laws and international obligations in the field of intellectual property.

14.8 The need for providing suitable training facilities in the field of intellectual property law for officials required to man the respective infrastructures was particularly stressed, and it was urged that the World Intellectual Property Organization (WIPO), as well as donor governments through and in cooperation with the World Intellectual Property Organization (WIPO), should increase their efforts in this respect.

14.9 Specifically with regard to the *patent system*, it was stressed that

(a) appropriate legislation, properly implemented, should encourage innovative and inventive activity and the local working of patented foreign inventions;

(b) laws should emphasize that the purpose of the patent system is to encourage the adequate working of patented inventions in the country granting the patent, taking due account of policies of complementarity in production among countries members of the Southern African Development Coordination Conference (SADCC) and the Preferential Trade Area for Eastern and Southern African States (PTA);

(c) the facilities provided by the Patent Documentation and Information Centre (ESAPADIC) of the Industrial Property Organization for English–Speaking Africa (ESARIPO) and by the World Intellectual Property Organization (WIPO) for access to technological information based on patent documentation, should be optimally utilized in order to permit an effective contribution of such information towards the development of indigenous technology and the identification, evaluation and assessment of foreign technology suited to the needs of the countries of the Southern African Development Coordination Conference (SADCC) and the Preferential Trade Area for Eastern and Southern African States (PTA) countries.

14.10 It was noted that, amongst the present 11 member States of the Industrial Property Organization for English–Speaking Africa (ESARIPO), four (Malawi, Tanzania, Zambia, Zimbabwe) are members of the Southern African Development Coordination Conference (SADCC). It was felt that Governments of the other member States of the Southern African Development Coordination Conference (SADCC) should consider in a positive way their adherence to the Industrial Property Organization for English–Speaking Africa (ESARIPO) and its Protocol on Patents and Industrial Designs, in order to strengthen its role in the African region.

14.11 Specifically with regard to *copyright* and *neighboring rights* it was stressed that

(a) the laws to be promulgated or updated in those fields should reflect the traditional respect of the population of the countries concerned for creators and safeguard the cultural and economic interests of the communities from which folklore originates, duly ensuring that dissemination of various expressions of folklore does not lead to any improper exploitation of the cultural heritage of the nation;

(b) consideration should be given to the enactment of appropriate legal provisions, including civil remedies and sufficiently deterrent penal sanctions against infringements, for the protection of authors and also of performers, producers of phonograms and broadcasting organizations. Considering the Model Law elaborated in this field as a basis, such enactment could enable adherence by the States concerned to the existing international legal system provided for the purpose.

14.12 It was noted that since intellectual property law was becoming increasingly important for all countries of the world, regardless of their degree of economic development, information dissemination campaigns should be undertaken at the national level by the competent authorities and organizations in order to make the public at large, as well as the policy–makers and the relevant decision–making bodies, aware of the nature of intellectual property rights and their importance in the context of economic, social and cultural development.

14.13 Finally, as part of the follow–up to the deliberations at the present Workshop, the participants asked the World Intellectual Property Organization (WIPO) to seek financing for

(a) the compilation and publication of the proceedings of the Workshop; those tasks could be undertaken by the National University of Lesotho (NUL), each paper being provided with the necessary cross–references, in addition to a full subject index, etc., and

(b) a possible short course on the laws and administration of intellectual property to be held at the Law Faculty of the National University of Lesotho (NUL), which

would be open to all the English-speaking developing countries in Africa. Since intellectual property is an important field in the development of countries technologically, economically and culturally, increased benefits could be derived by associating universities with studies and information dissemination in this connection.

Closing of the Workshop

15. After a number of participants and guest speakers had expressed their thanks to the Government of Lesotho, to the National University of Lesotho (NUL) and to the World Intellectual Property Organization (WIPO), the closing session was addressed by Dr. E. Malide, Permanent Secretary, Ministry of Education, Government of Lesotho.

List of Participants

I. States

Botswana

Mr. O.P. Kgoadi, Registrar of Companies, Trade Marks, Patents and Business Names, Ministry of Commerce and Industry, Gaborone

Lesotho

Mr. M.A. Ntlhoki, Solicitor General, Law Office, Maseru
Mrs. K.R. Hlalele, Registrar General, Law Office, Maseru
Mr. B. Tsekoa, Deputy Permanent Secretary, Ministry of Education Sports and Culture, Maseru
Mr. B.M. Paneng, Director of Sports and Culture, Ministry of Education, Sports and Culture, Maseru
Mrs. T. Kikine, Deputy Registrar General, Law Office, Maseru
Mrs. M. Makape, Legal Officer, Ministry of Foreign Affairs, Maseru
Mr. M. Thabane, Legal Officer, Ministry of Trade, Industry and Tourism, Maseru
Prof. U. Kumar, Dean, Faculty of Law, National University of Lesotho (NUL), Roma
Prof. B. Setai, Associate Professor, Department of Economics, NUL, Roma
Mr. R.J. Kukubo, University Archivist, NUL, Roma
Dr. J. Hunter, Lecturer, Department of Economics, NUL, Roma
Dr. M. Rwelamira, Senior Lecturer, Faculty of Law, NUL, Roma
Dr. Z. Matsela, Committee Member, Senior Lecturer, NUL, Roma
Mr. R.N. Kiwanuka, Committee Member, Senior Lecturer, NUL, Roma
Mr. A.T. Elias, Committee Member, Information Officer, NUL, Roma
Mr. H.S. Nyakale, Committee Member, Research Fellow, NUL, Roma
Mr. S. Nagenda, Committee Member, M.B. Consulting, Maseru
Mrs. S.M. Seeiso, Committee Member, Legal Officer, Lesotho National Development Corporation, Maseru
Dr. D. Raditapole, Managing Director, Lesotho Dispensary Association, Mafeteng
Mr. S.K. Mapetla, Deputy Managing Director, Lesotho Dispensary Association, Mafeteng

Malawi

Mr. M.H. Chirambo, Acting Registrar General, Department of the Registrar General, Blantyre

Mauritius

Mr. A.G. Pillay, Assistant Solicitor-General, Attorney-General's Office, Port Louis

Mozambique

Dr. J.F.M. Mabuie, Chief of Legal Department, Mozambique Chamber of Commerce, Maputo

Swaziland

Mr. J.G. Vilakazi, Registrar General, Mbabane

Tanzania

Prof. B.A. Rwezura, Associate Professor of Law, Faculty of Law, University of Dar-es-Salaam, Dar-es-Salaam

Zambia

Mr. A.R. Zikonda, Registrar, Patents, Trade Marks and Companies, Lusaka

Zimbabwe

Mr. N. Mvere, Assistant Registrar, Patents and Trade Marks, Harare

II. Intergovernmental Organization

Industrial Property Organization for English-Speaking Africa (ESARIPO)

Mr. J.H. Ntabgoba, Director

III. Guest Speakers

Mr. J. H. Ntabgoba, Director, Industrial Property Organization for English-Speaking Africa (ESARIPO), Harare, Zimbabwe
Dr. B.P. Wanda, Reader in Law and Head of Department of Law, Chancellor College, University of Malawi, Zomba, Malawi
Mr. S.C. Dlamini, Lecturer, Department of Law, University of Swaziland, Kwaluseni, Swaziland
Mr. A.H. Olsson, Director, Division for International Affairs, Ministry of Justice, Stockholm, Sweden
Prof. U. Kumar, Dean, Faculty of Law, National University of Lesotho (NUL), Roma, Lesotho
Prof. B. Setai, Professor, Department of Economics, NUL, Roma, Lesotho
Dr. J.P. Hunter, Lecturer, Department of Economics, NUL, Roma, Lesotho
Mr. R.J. Kukubo, University Archivist, NUL, Roma, Lesotho
Dr. D. Raditapole, Director, Lesotho Dispensary Association, Mafeteng, Lesotho
Mr. S.K. Mapetla, Deputy Director, Lesotho Dispensary Association, Mafeteng, Lesotho

IV. Observers

Dr. S. Pekane, Legal Advisor, African National Congress (ANC)
Mr. Z.N. Jobodwana, Legal Advisor, African National Congress (ANC)
Dr. D. Gachuki, EAIPS Project Consultant, International Development Research Centre (IDRC)(Canada), Kenya
Mrs. U.G. Ström, Head of Section, Swedish International Development Authority (SIDA), Ministry of Foreign Affairs, Sweden
Mr. B.O.G. Lindqvist, Planning Manager, Swedish Performing Rights Society (STIM), Sweden
Miss R.A. Mtengeti, Assistant Lecturer, Law Faculty, University of Dar-es-Salaam, Tanzania
Mr. J.C. Steblecki, Chairman, Steering Committee, Southern African Copyright Protection Society, Zimbabwe

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

Mr. R. Harben, Director, Public Information Division
Mr. S. Alikhan, Director, Developing Countries Division (Copyright)
Mr. J. Quashie-Idun, Head, Developing Countries Section, Industrial Property Division

Notifications

Convention Establishing the World Intellectual Property Organization

VENEZUELA

Accession

The Government of the Republic of Venezuela deposited, on August 23, 1984, its instrument of accession to the Convention Establishing the World Intellectual Property Organization (WIPO).

The Convention Establishing the World Intellectual Property Organization will enter into force, with respect to the Republic of Venezuela, three months after the date of deposit of its instrument of accession, that is, on November 23, 1984.

WIPO Notification No. 130, of August 28, 1984.

Berne Convention for the Protection of Literary and Artistic Works (Paris Act, 1971)

ICELAND

Accession

The Government of Iceland deposited, on September 28, 1984, its instrument of accession to the Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886, as revised at Paris on July 24, 1971, with a declaration provided for in Article 28(1)*(b)* of the Paris Act (1971) to the effect that its accession shall not apply to Articles 1 to 21 and the Appendix.

Articles 22 to 38 of the Paris Act (1971) of the said Convention will enter into force, with respect to Iceland, three months after the date of this notification, that is, on December 28, 1984.

Berne Notification No. 111, of September 28, 1984.

Nairobi Treaty on the Protection of the Olympic Symbol

CUBA

Accession

The Government of the Republic of Cuba deposited, on September 21, 1984, its instrument of accession to the Nairobi Treaty on the Protection of the Olympic Symbol, adopted at Nairobi on September 26, 1981.

The said Treaty enters into force, with respect to the Republic of Cuba, on October 21, 1984.

Nairobi Notification No. 27, of September 24, 1984.

EL SALVADOR

Accession

The Government of the Republic of El Salvador deposited, on September 14, 1984, its instrument of accession to the Nairobi Treaty on the Protection of the Olympic Symbol, adopted at Nairobi on September 26, 1981.

The said Treaty enters into force, with respect to the Republic of El Salvador, on October 14, 1984.

Nairobi Notification No. 26, of September 20, 1984.

National Legislation

AUSTRALIA

Copyright Amendment Act 1984

(No. 43 of 1984)

An Act to amend the law relating to copyright

Short title, &c.

1. (1) This Act may be cited as the *Copyright Amendment Act 1984*.

(2) The *Copyright Act 1968*[1] is in this Act referred to as the Principal Act.

Commencement

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Interpretation

3. Section 10 of the Principal Act is amended—

(a) by inserting after paragraph (b) of the definition of "adaptation" in sub-section (1) the following paragraph:

"(ba) in relation to a literary work being a computer program—a version of the work (whether or not in the language, code or notation in which the work was originally expressed) not being a reproduction of the work;";

(b) by inserting after the definition of "cinematograph film" in sub-section (1) the following definition:

" 'computer program' means an expression, in any language, code or notation, of a set of instructions (whether with or without related information) intended, either directly or after either or both of the following:

(a) conversion to another language, code or notation;

(b) reproduction in a different material form,

to cause a device having digital information processing capabilities to perform a particular function;";

(c) by omitting paragraph (a) of the definition of "infringing copy" in sub-section (1) and substituting the following paragraph:

"(a) in relation to a work—a reproduction of the work, or of an adaptation of the work, not being a copy of a cinematograph film of the work or adaptation;";

(d) by omitting paragraph (e) of the definition of "infringing copy" in sub-section (1) and substituting the following paragraph:

"(e) in relation to a published edition of a work—a reproduction of the edition,";

(e) by omitting "imported article" from the definition of "infringing copy" in sub-section (1) and substituting "article imported without the licence of the owner of the copyright";

(f) by omitting the definition of "literary work" in sub-section (1) and substituting the following definition:

[1] Act No. 63, 1968 [see *Copyright*, 1970, pp. 178, 218, 247 and 267], as amended. For previous amendments, see No. 216, 1973; Nos. 37 and 91, 1976; No. 160, 1977; No. 19, 1979; No. 154, 1980; Nos. 42, 61 and 113, 1981; Nos. 26, 80 and 154, 1982; and Nos. 7, 80, 91 and 136, 1983.

" 'literary work', includes—
(a) a table, or compilation, expressed in words, figures or symbols (whether or not in a visible form); and
(b) a computer program or compilation of computer programs;"; and

(g) by inserting after the definition of "manuscript" in sub-section (1) the following definition:
" 'material form', in relation to a work or an adaptation of a work, includes any form (whether visible or not) of storage from which the work or adaptation, or a substantial part of the work or adaptation, can be reproduced;".

4. After section 43 of the Principal Act the following section is inserted:

Back-up copy of computer program

"43A. (1) Subject to sub-section (2), the copyright in a literary work being a computer program is not infringed by the making of a reproduction of the work, or of a computer program being an adaptation of the work, if—

(a) the reproduction is made by, or on behalf of, the owner of the copy (in this section referred to as the 'original copy') from which the reproduction is made; and
(b) the reproduction is made for the purpose only of being used, by or on behalf of the owner of the original copy, in lieu of the original copy in the event that the original copy is lost, destroyed or rendered unusable.

"(2) Sub-section (1) does not apply to the making of a reproduction of a computer program, or of an adaptation of a computer program—

(a) from an infringing copy of the computer program; or
(b) contrary to an express direction by or on behalf of the owner of the copyright in the computer program given to the owner of the original copy not later than the time when the owner of the original copy acquired the original copy.

"(3) For the purposes of this section—

(a) a reference to a copy of a computer program or of an adaptation of a computer program is a reference to any article in which the computer program or adaptation is reproduced in a material form; and
(b) a reference to an express direction, in relation to a copy of a computer program or of an adaptation of a computer program, includes a reference to a clearly legible direction printed on the copy or on a package in which the copy is supplied.".

Offences

5. Section 132 of the Principal Act is amended by inserting after sub-section (5) the following sub-section:

"(5A) For the purposes of this section, a transmission by a person of a computer program that is received and recorded so as to result in the creation of an infringing copy of the computer program shall be deemed to be a distribution by the person of that infringing copy.".

6. After section 133 of the Principal Act the following section is inserted:

Advertisement for supply of infringing copies of computer programs

"133A. (1) A person shall not, by any means, publish, or cause to be published, in Australia an advertisement for the supply in Australia (whether from within or outside Australia) of a copy of a computer program if the person believes, or has reasonable grounds for believing, that the copy is, or will be, an infringing copy.

Penalty: For a first offence, 1,500 and for a second or subsequent offence, 1,500 or imprisonment for 6 months.

"(2) For the purposes of this section, a transmission of a computer program that, when received and recorded, will result in the creation of a copy of the computer program shall be deemed to constitute the supply of a copy of the computer program at the place where the copy will be created.

"(3) Prosecutions for offences against this section may be brought in the Federal Court of Australia or in any other court of competent jurisdiction.".

Application and transitional

7. (1) Subject to this section, the amendments made by this Act extend to works and other subject matter made before the commencement of this Act.

(2) Where, by virtue only of the amendments made by this Act, copyright subsists in a work that was made before the commencement of this Act—

(a) nothing done before the commencement of this Act shall be taken to constitute an infringement of that copyright;
(b) nothing done in relation to the work before the commencement of this Act shall be taken to constitute an offence against section 132 of the Principal Act; and
(c) without limiting the generality of paragraph (a), a reproduction of the work, or of an adaptation of the work, made in, or imported into, Australia before the commencement of this Act shall not be taken to be an infringing copy of the work.

(3) For the purposes of this section, a work the making of which extended over a period shall be deemed not to have been made before the commencement of this Act unless the making of it was completed before the commencement of this Act.

RWANDA

Law Governing Copyright

(No. 27/1983 of November 15, 1983)

PART I

The Protection of Copyright

TITLE I

Protected Works

Article 1. Authors of original literary, artistic and scientific works shall be entitled to the protection of their works as provided by this Law.

"Original work" shall mean a work whose characteristic elements and whose form, or whose form alone, enable its author to be distinguished.

Article 2. Protected literary, artistic and scientific works shall include, in particular:

(a) books, pamphlets and other writings;
(b) lectures, speeches, addresses, sermons and other works of the same nature;
(c) dramatic and dramatico-musical works;
(d) musical works, whether or not they are in written form and whether or not they include accompanying words;
(e) choreographic works and pantomimes;
(f) cinematographic, radiophonic and audiovisual works;
(g) works of drawing, painting, architecture, sculpture, engraving, lithography, tapestry;
(h) photographic works, including works expressed by processes similar to photography;
(i) works of applied art, whether handicrafts or produced by industrial processes; however, industrial designs shall continue to be governed by the Law on Industrial Designs;
(j) illustrations, maps, plans, sketches and other three-dimensional works relative to geography, history, topography, architecture.

Article 3. Works of folklore shall be protected in the same way as original works.

For the purposes of this Law, "folklore" shall mean all the literary, artistic, religious, scientific, technological and other traditions and productions created from generation to generation by individual unidentified Rwandese, which thus constitute the fundamental elements of the Rwandese heritage.

These shall include, in particular:

(a) literary works of all kinds and of all categories: tales, legends, myths, proverbs, narrations and poems;
(b) artistic styles and productions: dances and shows of all kinds, musical works of all kinds, styles and works of decorative art by any process, architectural styles;

(c) traditions and religious events: rites and rituals, objects, clothing, places of worship;
(d) practices and customs in general;
(e) scientific knowledge: practices and products of medicine and of pharmacopoeia, acquired theoretical and practical knowledge in the fields of natural science and anthropology and others;
(f) knowledge and works of technology: arts and crafts of all kinds.

"Work inspired by folklore" shall mean any work exclusively created with the aid of elements taken from Rwandese folklore.

Article 4. Derived works shall also be protected as original works.

"Derived work" shall mean a work created on the basis of one or more preexisting works. Derived works shall comprise in particular:

(a) translations, adaptations, arrangements of music and other transformations of literary, artistic or scientific works;
(b) collections of literary, artistic or scientific works, such as encylopedias and anthologies which, by reason of the selection and arrangement of their contents, constitute intellectual creations;
(c) works inspired by national folklore.

The protection enjoyed by derived works shall be without prejudice to any protection of the preexisting works used.

Article 5. Literary, artistic and scientific works shall be protected irrespective of their quality and the purpose for which they were created.

Article 6. The protection afforded by this Law shall not be subject to any formality. However, authors of works to which this Law applies shall have the faculty of having their works registered with the copyright administration service.

TITLE II

Non-Protected Works

Article 7. Protection shall not be afforded to laws, judicial decisions or decisions of administrative bodies.

Protection shall likewise not be afforded to news of the day that has been published and communicated to the public.

TITLE III

Protected Rights

CHAPTER I

Moral Rights

Article 8. The author of a work shall have the right:

(a) to claim authorship of his work, in particular that his authorship be stated in connection with any of the acts referred to in Article 9, except where the work is included incidentally or accidentally when reporting current events by means of broadcasting;
(b) to object to, and to seek relief in connection with, any distortion, mutilation or other modification of, and any other derogatory action in relation to, his work, where such action would be or is prejudicial to his honor or reputation;
(c) to disclose his work or to prohibit disclosure thereof;
(d) to withdraw from circulation or suspend any form of previously authorized utilization, prior to or after utilization.

The moral rights in works of folklore shall be exercised by the copyright administration service.

However, no such rights may be exercised unless third parties are compensated for any damage caused to them by such exercise.

CHAPTER II

Economic Rights

Section 1. Economic Rights in Protected Works

Article 9. Subject to the limitations stipulated by this Law, the author of a protected work shall have the exclusive right to do or to authorize the following acts in relation to the whole work or a part thereof:

(a) reproduce the work by making one or more copies of a literary, artistic or scientific work in any material form whatsoever, including sound recording;
(b) make a translation, an adaptation, an arrangement or any other transformation of the work;
(c) communicate the work to the public by performance or by broadcasting.

The economic rights in works of folklore shall be administered by the Rwandese Copyright Administration Service, which may require payment of a fee as stipulated by the President of the Republic.

Likewise, full or part assignment of a work inspired by folklore or of an exclusive license in respect of such work shall not be valid without the approval of the Rwandese Copyright Administration Service.

Article 10. None of the acts referred to in Article 9 may be carried out by a third party without the formal and written authorization of the author or of his successors in title, duly countersigned by a notary or legalized by a competent authority.

Section 2. Droit de Suite

Article 11. Notwithstanding any assignment of the original work, the authors of original works of art and of original manuscripts shall have an inalienable right to a share in the proceeds of any sale of the work or manuscript by public auction or through a dealer, whatever the methods used by the latter to carry out the operation. However, such right shall not apply to architectural works or to works of applied art.

Article 12. The same right shall belong to the author's heirs for a period of time which is the same as the term of literary, artistic and scientific property laid down by this Law.

Article 13. The seller, the buyer and the organizer of public auctions shall be jointly responsible to the author or the heirs to the right laid down in Article 11 of this Law.

The tariff and other conditions for exercising this *droit de suite* shall be laid down by presidential decree.

Article 14. Droit de suite shall not be effective until publication in the Official Gazette of the presidential decree referred to in Article 13.

TITLE IV

Domaine public payant

Article 15. For the purposes of this Law, public domain shall mean all those works that may be exploited by anyone whatsoever without any authorization from the author, either because the term of protection has expired or because no international instrument affords protection to them in the case of foreign works.

Article 16. Users of works in the public domain shall be required to pay to the Rwandese Copyright Administration Service a lump sum whose amount shall be laid down by the Minister having responsibility for culture. Such amount shall be paid into a fund for the furtherance of institutions set up for the benefit of authors.

Article 17. Full or part assignment of copyright in a work based on a literary, artistic or scientific production that has fallen into the public domain or an exclusive license in respect of such work shall not be valid unless it has obtained the approval of the Rwandese Copyright Administration Service, which may require in respect of such approval the payment of a fee subject to the conditions to be laid down by a decree of the Minister with responsibility for culture.

TITLE V

Limitations

CHAPTER I

General Limitations

Article 18. Notwithstanding Articles 8 and 9, the following uses of a protected work shall be permissible without payment of royalties and without the author's consent:

(I) in the case of a work that has been lawfully published:

(a) the reproduction, translation, adaptation, arrangement or any other transformation of such work exclusively for the user's own personal and private use;

(b) the inclusion, subject to mentioning the source and the name of the author, of quotations from such work in another work, provided that such quotations are compatible with fair practice and their extent does not exceed that justified by the purpose, including quotations from newspaper articles and periodicals in the form of press summaries;

(c) the utilization of the work by way of illustration in publications, broadcasts or sound or visual recordings for teaching, to the extent justified by the purpose, or the communication for teaching purposes of the

work broadcast for use in teaching and research, provided that such use is compatible with fair practice and that the source and the name of the author are mentioned in the publication, the broadcast or the recording;

(d) the reproduction of such a work by photographic or similar process by public libraries, non-commercial documentation centers, scientific institutions and educational establishments, provided that such reproduction and the number of copies made are limited to the needs of their activities, do not conflict with the normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the author;

(II) reproduction in the press or on radio and television of an article published in a newspaper or periodical, provided that the source, the title and the name of the author be clearly stated, unless the article or the periodical in which it is published specifically states that its reproduction is prohibited;

(III) reproduction in the press or communication to the public of:

(a) any political speech or speech delivered during legal proceedings;

(b) any lecture, address, sermon or other work of the same nature delivered in public, provided that the use is exclusively for the purposes of current information, whereby the author shall retain the right to publish a collection of such works;

(IV) reproduction of works of architecture by means of photography, cinematography, television or any similar process or the publication of corresponding photographs in newspapers, periodicals and school textbooks; reproduction of works of art and of architecture in a film or in a television broadcast and the communication to the public of the works so reproduced, if the said works are permanently located in a place where they can be viewed by the public or are included in the film or in the broadcast only as incidental to the main subject represented.

The author of a work of architecture may not prevent modifications which the owner decides to make to such work. However, he may oppose the use of his name as the author of the modification.

The provisions on limitations to copyright shall also apply to works of folklore; however, any publication or any communication to the public of an identifiable expression of folklore shall state its source in an appropriate manner by referring to the community and/or geographical location from which it stems.

CHAPTER II

Special Limitations

Section 1. Limitation of the Right of Recording

Article 19. Notwithstanding Articles 8 and 9, any broadcasting organization may make, for the purpose of its own broadcasts and by means of its own facilities, an ephemeral recording, in one or more copies, of any work which it is authorized to broadcast.

All copies of it shall be destroyed within six months of the making or within any longer term agreed to by the author; however, where such recording has an exceptional documentary character, one copy of it may be preserved in official archives.

Section 2. Limitation of the Right of Broadcasting

Article 20. Notwithstanding the provisions of Article 9, and subject to Article 8, the broadcasting, even in the absence of authorization from the author, of a work which has been made available to the public with the consent of the author shall be lawful in return for remuneration. Likewise, communication to the public, even in the absence of authorization from the author, of a work broadcast with the consent of the author shall be lawful in return for remuneration.

The amount of such remuneration shall be laid down by the Minister having responsibility for culture.

Article 21. Article 20 shall not apply in the following cases:

(1) if the works belonging to the repertoire of the Rwandese Copyright Administration Service or managed by that Service on the basis of a reciprocal contract concluded with a national or foreign organization may not be broadcast except on the basis of a blanket authorization contract that has to be concluded beforehand with the broadcasting organization for a fixed term;

(2) if the author has exercised his right referred to in Article 8*(d)* and has notified such fact to the broadcasting organization, the works concerned may no longer be broadcast;

(3) if in his contract for stage performance of his work, the author has entered reservations as regards transmission of stage performances by radio, such reservations must be respected by the broadcasting organization.

Section 3. Limitation of the Right of Translation

Article 22. Notwithstanding the provisions of Article 9, it shall be lawful, even without the author's authorization, to translate a work into Kinyarwanda, Swahili, French or English and to publish the translation in Rwanda under a license granted by the Rwandese Copyright Administration Service and under the conditions laid down by this Law.

Section 4. Limitation of the Right of Reproduction

Article 23. Notwithstanding the provisions of Article 9, it shall be lawful, even without the author's authorization, to reproduce a work and publish a particular edition thereof on the territory of the Rwandese Republic under a license granted by the Rwandese Copyright Administration Service and under the conditions laid down by this Law.

TITLE VI

The Duration of Authors' Rights

CHAPTER I

The Duration of Moral Rights

Article 24. At the death of the author, the rights referred to in Article 8*(a)*, *(b)* and *(c)* shall devolve upon his heirs. The rights referred to in *(a)* and *(b)* shall be perpetual, inalienable and imprescriptible. Those referred to in *(c)* shall last during the period of protection.

Article 25. Notwithstanding Article 8*(b)*, the rights referred to in Article 8*(d)* shall cease immediately at the death of the author. These rights may not be assigned by the author save by written deed.

CHAPTER II

The Duration of Economic Rights

Article 26. The rights referred to in Article 9 shall be protected during the author's lifetime and for 50 years after his death.

Article 27. In the case of a work of joint authorship, the rights referred to in Article 9 shall be protected during the lifetime of the last surviving author and for 50 years after his death.

Article 28. In the case of an anonymous work or a work published under a pseudonym, the rights referred to in Article 9 shall be protected up to expiry of a period of 50 years as from the date on which the work was lawfully published for the first time; however, Article 26 shall apply if the identity of the author has been revealed and is no longer in doubt before the expiry of that period.

Article 29. In the case of a cinematographic, radiophonic or audiovisual work that has been published with the consent of the author or is unpublished, the rights referred to in Article 9 shall be protected for a period of 50 years as from the making of the work.

Article 30. In the case of a posthumous work, the rights referred to in Article 9 shall be protected up to expiry of a period of 50 years as from the date on which the work was lawfully published for the first time. Where the general interest in access to such work that has not been published during the author's lifetime so justifies, the court may, on request of the Minister having responsibility for culture, order any appropriate measure should the author's heirs or the possessors of the work refuse without valid reason to disclose it.

The court may also pronounce to authorize disclosure of a work in the event of disagreement between two or more of the author's successors in title.

Article 31. In the case of a work belonging originally to a legal person, the rights referred to in Article 9 shall be protected up to expiry of 50 years as from the date on which the work was lawfully published for the first time.

TITLE VII

Ownership of Authors' Rights

CHAPTER I

General Provisions

Article 32. Subject to the special provisions of this Law, authors' rights shall belong originally to the author or authors who have created the work.

Article 33. A work shall be deemed to have been created, irrespective of any disclosure, by the mere fact of the author's concept being realized, even incompletely.

Article 34. Except as otherwise proved, the author of the work shall be deemed to be the person whose name or pseudonym, where the latter leaves

no doubt as to the identity of the author, is shown on the work.

However, folklore shall belong originally to the national cultural heritage.

CHAPTER II

Pseudonymous and Anonymous Works

Article 35. The author of a pseudonymous or anonymous work shall enjoy therein the rights afforded by this Law.

"Pseudonymous work" shall mean a work disclosed under an assumed name.

"Anonymous work" shall mean a work disclosed without stating the name or pseudonym of its author.

Article 36. The author shall be represented in the exercise of his rights by the original publisher or editor, until such time as he declares his identity and proves his authorship.

CHAPTER III

Posthumous Works

Article 37. The heirs or other successors in title of the author shall enjoy the rights afforded by this Law in a posthumous work. "Posthumous work" shall mean a work published after the death of the author.

CHAPTER IV

Works Published for Another Person

Article 38. Copyright in a work created by an author for a natural person or a legal person under an employment contract or in a work commissioned from the author by such person, shall belong originally to the author, unless otherwise stipulated in writing in the contract. For the purposes of this Law, a work produced for the State within the exercise of its official functions shall belong to the State that has commissioned the work, except as otherwise agreed.

CHAPTER V

Works Created by More Than One Person

Section 1. Works of Joint Authorship

Article 39. "Work of joint authorship" shall mean a work created by two or more authors in collaboration, in which the individual contributions are indissociable from each other and form a whole.

Article 40. A work of joint authorship shall be indivisible where it is not possible to distinguish the share of each author; it shall belong jointly to the co–authors. Where copyright is indivisible, exercise of that right shall be governed by agreement and none of the co–owners may exercise it in isolation, subject to court decision in the case of disagreement. However, each of the co–owners shall remain entitled to take legal action in his own name and without intervention by the other co–owners against any infringement of copyright and to claim damages on his own behalf.

Article 41. Where the participation of each of the co–authors belongs to a different category or comprises parts having an autonomous creative character, the work of joint authorship is divisible and each author may, except where agreed otherwise, exploit his personal contribution separately without, however, prejudicing the exploitation of the joint work.

Section 2. Collective Works

Article 42. "Collective work" shall mean a work created on the initiative of a natural or legal person who discloses it under his direction or under his name and in which the contribution of the various persons that have participated in its production is contained in the whole for the purpose of which it was intended, without it being possible to allocate to each of them a separate right in the whole.

Article 43. A collective work shall belong, except as otherwise stipulated, to the natural or legal person who has taken the intiative of its creation and under whose name it has been disclosed. Copyright shall vest in that person.

Section 3. Composite Works

Article 44. "Composite work" shall mean a work in which a preexisting work, or fragments of such work, has been incorporated without the assistance of the author of such work.

Article 45. Copyright in a composite work shall belong to the person who has created it, subject to the rights of the author of the preexisting work.

CHAPTER VI

Copyright in Cinematographic Works

Article 46. Copyright in a cinematographic work shall belong originally to the intellectual creators of

the work. Except as otherwise provided, the following co-authors shall be deemed the intellectual creators of a cinematographic work:

- the director,
- the author of the adaptation,
- the author of the screenplay,
- the author of the script,
- the author of musical compositions, with or without words, specially created for the work,
- the cartoonist, in the case of cartoons.

Article 47. Where the cinematographic work is drawn from a preexisting work that is still protected, the author of the original work shall be considered one of the authors of the new work.

Article 48. Before undertaking the production of a cinematograhic work, the producer, who is the natural or legal person taking financial responsibility for the work, shall be required to conclude written contracts with all persons whose works are to be used for that production.

The contracts concluded with the intellectual creators of the work shall imply a presumption of assignment of the rights necessary for the cinematographic exploitation of the work in favor of the producer for a term stipulated by those contracts.

Article 49. Each co-author may, unless otherwise agreed, freely use his personal contribution with a view to its exploitation in a different field, provided that this does not prejudice the exploitation of the joint work.

Article 50. If one of the co-authors of the cinematographic work refuses to complete his contribution to that work or is unable to complete his contribution due to circumstances beyond his control, he shall not be entitled to object to completion and to use of the part of his contribution already completed, for the making of the cinematographic work. He shall be deemed the author of that contribution and shall enjoy the rights deriving therefrom. In any event, he shall retain the possibility of withdrawing his name from the credits of the work.

Article 51. A cinematographic work shall be declared completed by the producer when the master print has been established.

Article 52. Any work expressed by means of a process resulting from visual effects similar to those of cinematography shall be assimilated to a cinematographic work.

TITLE VIII

Transfer of Copyright

CHAPTER I

Transfer of Copyright in General

Article 53. The rights referred to in Article 9 shall be moveable, assignable and transferable, in whole or in part, in accordance with the rules of the Civil Code, unless otherwise stipulated by this Law.

Any transfer of the rights referred to in Article 9, other than by operation of the law, must be recorded in a written contract.

Any transfer of all or part of any of the rights referred to in Article 9, shall be limited to the types of exploitation stipulated in the contract. The author shall retain all rights not expressly transferred by him. Transfer of property of the sole copy or of a number of copies shall not imply transfer of copyright in the work.

In the event of a dispute arising from the contractual assignment of rights referred to in Article 9, the most diligent party may request the assistance of the Rwandese Copyright Administration Service, which may settle the dispute out of court. Should the dispute persist, the parties may proceed to the courts.

Article 54. In the absence of heirs, authors' economic rights that have escheated shall become the property of the Rwandese State acting through the Minister having responsibility for copyright and any revenue therefrom shall be paid into the fund referred to in Article 16 of this Law, without prejudice to the rights of creditors and to the execution of any assignment contracts concluded by the author or his successors in title.

Article 55. The assignment contract must stipulate, *inter alia*:

(1) the nature of the rights assigned and the field and form of exploitation of the work;
(2) the term of utilization of the rights assigned;
(3) the number of performances or broadcasts or the number of copies, in the case of publications or reproductions;
(4) the amount and method of remuneration to the author. This amount may be a lump sum or may be proportional to revenue from sales or exploitation and must comply with a guaranteed minimum, the value of which will be specified by the Minister having responsibility for culture;
(5) provisions governing possible amendment or termination.

Article 56. Remuneration shall be laid down as a lump sum:

(1) where use of the work involved constitutes only a subsidiary element in relation to the exploited subject matter;
(2) where the work is used by a public or private undertaking for non-profit-making purposes.

Article 57. The assignment in whole of future works shall be null and void. However, assignment in whole of the author's right in the administration of rights in future works afforded by the author to the Rwandese State acting through the Rwandese Copyright Administration Service shall be lawful as shall the conclusion of a contract of commission for specified works.

CHAPTER II

Publishing Contracts

Article 58. A publishing contract is a contract under which the author of a work or his successors in title assign to the publisher, under specified conditions, the right to manufacture or have manufactured a sufficient number of graphical, mechanical or other copies of the work, it being for the latter to ensure publication and dissemination thereof.

Article 59. The form and mode of expression, the terms of publication and the termination clauses shall be specified in the contract. The publisher may not make any amendment to the work without the agreement of the author. He shall have the name or pseudonym of the author appear on each of the copies. Unless otherwise stipulated, the publisher shall effect publication within the period of time that is usual in the trade.

Article 60. Unless otherwise stipulated, the subject matter of publication supplied by the author shall remain the property of the latter.

Article 61. The publishing contract shall specify the number of copies of the first edition. Unless otherwise stipulated in the contract, no further edition may be made without the agreement of the author.

Article 62. The author's remuneration shall consist of a percentage of the selling price of each copy of the work sold. This percentage, irrespective of other forms of remuneration, such as the payment for non-publication, shall not be less than 10 percent. In addition, the publishing contract may stipulate payment to the author of an advance on his royalties, either at the time of commission or at the date of acceptance of the manuscript.

The publisher shall be required to furnish to the author appropriate proof to establish the accuracy of his accounts. Unless otherwise stipulated, the author may require the publisher to furnish at least once a year a statement showing:

(1) the number of copies made during the period, specifying the date and number of printings;
(2) the number of copies in stock;
(3) the number of copies sold;
(4) the number of copies that are unusable or have been destroyed due to unavoidable circumstances;
(5) the amount of the royalties owing and, possibly, the amount of royalties already paid to the author.

Article 63. The publisher may not transfer the benefits of the publishing contract to a third party, for or without valuable consideration, or as a contribution to the assets of a partnership, independently of the business, without having first obtained the authorization of the author.

Article 64. In the event of transfer of the business in such a way as to seriously compromise the material or moral interests of the author, the latter shall be entitled to obtain equitable reparation, failing which he may even request termination of the contract.

Where the publishing business has been exploited as a partnership or has depended on joint ownership, the allocation of the business to one of the ex-partners or one of the joint owners, as a consequence of the dissolution or division thereof, shall in no case be considered a transfer.

Article 65. In the case of a fixed term contract, the publisher's rights shall automatically terminate on expiry of the term without need for formal notice. However, for three years following such expiry, the publisher may continue to sell at the normal price the copies remaining in stock unless the author prefers to buy those copies at a price to be established, failing amicable agreement, by evaluation, whereby this faculty afforded to the first publisher shall not prevent the author from having a new edition made within a period of three months.

Article 66. Termination shall take place automatically when, upon formal notice by the author fixing a suitable period, the publisher has not effected publication of the work or, should the work be out of print, its re-edition.

An edition shall be deemed out of print if two orders for the delivery of copies addressed to the publisher have not been met within six months. The publishing contract may be terminated by the publisher if, upon formal notice fixing a suitable period, the author has not enabled the publisher to effect publication of the work.

If, in the event of the author's death, the work is incomplete, the contract shall be rescinded as regards the unfinished part of the work, except where otherwise agreed between the publisher and the author's successors in title.

Article 67. A "contract at the author's expense" shall not constitute a publishing contract within the meaning of Article 58. Under such contract, the author or his successors in title pay to the publisher an agreed remuneration against which the latter manufactures a number of copies of the work in the form and according to the modes of expression specified in the contract and ensures their publication and dissemination.

Such contract constitutes a contract of undertaking governed by the agreements, usage and the rules of civil law and commercial law.

Article 68. A "contract at joint expense" shall not constitute a publishing contract within the meaning of Article 58. Under such a contract, the author or his successors in title commission a publisher to manufacture at his expense a number of copies of the work in the form and according to the modes of expression specified in the contract and to ensure their publication and dissemination in accordance with the agreement reciprocally contracted to share profits and losses of exploitation in the agreed proportion. Such contract shall constitute a joint undertaking.

CHAPTER III

Public Performance Contracts

Article 69. A public performance contract is a contract under which the author of a work of the mind or his successors in title authorize a natural or legal person to publicly perform that work under conditions laid down by the contracting parties.

A "general performance contract" is a contract under which the body administering copyright grants to an entertainment promoter the right to perform, for the duration of a contract, the existing or future works constituting the repertoire of such body under the conditions laid down by the two parties.

Article 70. A performance contract shall be concluded for a limited term and for a given number of communications to the public.

Article 71. Except where exclusive rights are expressly stipulated, a performance contract shall not afford any exploitation monopoly. The entertainment promoter may not transfer enjoyment of his contract without the formal consent given in writing by the author or his representative.

Article 72. The entertainment promoter shall be required:

(1) to inform the author or his representatives of the exact program of public performances;
(2) to supply to them a documented statement of receipts;
(3) to pay to them the amount of the stipulated royalties;
(4) to ensure that the public performance takes place under technical conditions such as to guarantee the moral rights of the author.

CHAPTER IV

Broadcasting Contracts

Article 73. A broadcasting contract is a contract under which the author or his successors in title undertake to make a work available to a broadcasting organization that acquires the right to broadcast the work for a period of time laid down by the contract and the right to record it on a sound or visual carrier and is required, in return for that utilization, to pay remuneration to the author or his successors in title.

Where the work created for broadcasting is not used within the period of time laid down in the contract, the author shall be entitled to terminate the contract and to require payment of his remuneration.

Article 74. A "general broadcasting contract" is a contract under which the copyright administration service grants to a broadcasting organization the right to broadcast, for the duration of the contract, the existing or future works constituting the repertoire of such body under the conditions stipulated by the two parties. Articles 70 to 72 shall apply to broadcasting contracts in respect of relations between authors or copyright administration bodies and the broadcasting organizations.

TITLE IX

Administration of Copyright

Article 75. There shall be set up within the Ministry having responsibility for culture a service responsible for defending the moral and material interests of authors and the administration of authors' rights having the title "Rwandese Copyright Administration Service" *[Service rwandais chargé de la gestion du droit d'auteur]* and the abbreviation "SRDA." The SRDA shall be the sole service empowered to administer the economic and moral rights of authors in conformity with the provisions of this Law. It shall be assisted by a Committee for the Collection and Distribution of Royalties. The terms of the operation of SRDA and of the Committee shall be laid down by Presidential Decree.

TITLE X

Offenses and their Repression

Article 76. Under this Law, any fraudulent act committed against copyright shall constitute an offense of infringement. Those who knowingly sell, put up for sale, offer for hire, hold or introduce into the territory of the Rwandese Republic, infringing objects for commercial purposes, commit the same offense. The offenses under this Article shall be punishable by imprisonment for between two months and one year and a maximum fine of 20,000 francs or by one of these penalties only.

Article 77. Fraudulent affixing on a literary, artistic or scientific work of the name of an author or of any distinctive sign adopted by him to distinguish his works shall be punishable by imprisonment for between two months and one year and a maximum fine of 20,000 francs or by one of these penalties only.

Those who knowingly sell, put up for sale, offer for hire, hold or introduce into the territory of the Rwandese Republic the works referred to in these Articles shall be liable to the same penalties.

Article 78. Exploitation of a work of folklore or of a work that has fallen into the public domain without requesting the authorization referred to in Articles 9 or 16 of this Law shall be punishable by a fine amounting to twice the amount of the fees that would normally be payable, up to a maximum of 40,000 francs.

Article 79. The infringing works referred to in Articles 76 and 77 of this Law shall be confiscated.

Confiscation shall also be ordered in respect of the works referred to in Article 78 where exploitation has been made without prior authorization.

Article 80. Civil proceedings resulting from the exercise of copyright shall be instituted in compliance with the statutory provisions in force.

TITLE XI

Field of Application of the Part I of this Law

Article 81. Part I of this Law shall apply to works for which Rwanda is the country of origin. The following shall be deemed of Rwandese origin:

(a) works published for the first time in Rwanda whatever the nationality or domicile of their authors;
  1. "published work" shall mean a work published with the consent of its author whatever the mode of manufacture of the copies provided that they have been made available in such a way as to satisfy the reasonable needs of the public, taking into account the nature of the work;
  2. "work published for the first time in Rwanda" shall mean a work whose first publication has been effected in Rwanda or a work whose first publication has been effected abroad but whose publication in Rwanda has taken place within 30 days of that prior publication, whereby these two publications shall be deemed simultaneous;

(b) works created by authors of Rwandese nationality;

(c) works of authors having their usual place of residence or staying in Rwanda;

(d) cinematographic works whose producer has his offices or his usual place of residence in Rwanda;

(e) works of architecture erected on the territory of the Rwandese Republic and any work of art incorporated in a building located on that territory.

Article 82. Under the commitments entered into by the Rwandese Republic in accordance with international conventions, works for which Rwanda is not the country of origin shall enjoy the protection afforded by this Law.

Article 83. Works not falling within any of the categories referred to in Articles 81 and 82 shall not enjoy the protection afforded by this Law unless the

country of which the owner of the copyright is a national or in which he has his domicile affords equivalent protection to works of Rwandese origin.

PART II

Protection of Neighboring Rights

TITLE I

Definitions

Article 84. For the purposes of this Law, "neighboring rights" shall mean the protection of works of performers, producers of phonograms and broadcasting organizations.

Article 85. "Performers" shall mean actors, singers, musicians, dancers and other persons who in any way perform literary and artistic works of which they are not the authors, including works of folklore.

Article 86. "Broadcasting" shall mean the transmission by wireless means for public reception of sounds or of images and sounds.

Article 87. "Fixation" shall mean the embodiment of sounds, images, or both in a material form sufficiently permanent or stable to permit them to be perceived, reproduced or otherwise communicated during a period of more than transitory duration.

Article 88. "Rebroadcasting" shall mean the broadcasting by one broadcasting organization of the broadcast of another broadcasting organization.

Article 89. "Reproduction" shall mean the making of a copy or copies of a fixation or a substantial part of that fixation.

Article 90. "Phonogram" shall mean any exclusively aural fixation of sounds of a performance or other sounds.

"Producer of phonograms" shall mean the natural or legal person who first fixes the sounds of a performance or other sounds. "Copy of a phonogram" shall mean any physical medium containing sounds taken directly or indirectly from a phonogram and incorporating all or a substantial part of the sounds fixed on that phonogram. "Publication of a phonogram" shall mean the offering of copies of a phonogram to the public in reasonable quantity.

Article 91. "Distribution to the public" of phonograms shall mean any act of which the purpose is to offer copies of a phonogram directly or indirectly to the general public or to a part thereof.

TITLE II

Protection of Performers' Works

CHAPTER I

Acts Requiring Authorization of Performers

Article 92. Without the authorization of the performers, no person shall do any of the following acts:

(a) the broadcasting of their performance, except where the broadcast:
   1. is made from a fixation of the performance, other than a fixation made under the terms of Title V, Article 107;
   2. is a rebroadcast authorized by the organization initially broadcasting the performance;

(b) the communication to the public of their performance, except where the communication:
   1. is made from a fixation of the performance;
   2. is made from a broadcast of the performance;

(c) the fixation of their unfixed performance;

(d) the reproduction of a fixation of their performance, in any of the following cases:
   1. where the performance was initially fixed without their authorization;
   2. where the reproduction is made for purposes different from those for which the performers gave their authorization;
   3. where the performance was initially fixed in accordance with the provisions of Title V, but the reproduction is made for purposes different from any of those referred to in this Chapter.

Article 93. Except as otherwise agreed:

(a) the authorization to broadcast does not imply authorization to license other broadcasting organizations to broadcast the performance;

(b) the authorization to broadcast does not imply an authorization to fix the performance;

(c) the authorization to broadcast and fix the performance does not imply an authorization to reproduce the fixation;

(d) the authorization to fix the performance and to reproduce the fixation does not imply an authorization to broadcast the performance from the fixation or any reproduction of such fixation.

Article 94. Once the performer has authorized for profit-making purposes the fixation of his performance as defined in Article 87 of this Law, the provisions of Articles 92 and 93*(c)* and *(d)* above shall cease to be applicable.

Article 95. Protection under the provisions of this Chapter shall subsist for a period of 25 years as from the date on which the performance took place for the first time.

CHAPTER II

Granting of Authorizations

Article 96. The authorization required by the provisions of the preceding Chapter may be given by the performer or, on his instructions, by the Rwandese Copyright Administration Service.

Article 97. Any authorization given by a performer stating that he has retained certain rights or by the Rwandese Copyright Administration Service shall be considered valid.

Article 98. Any person who gives authorizations on behalf of performers without being duly appointed or any person who knowingly acts under such unlawful authorization shall be punishable by imprisonment for between two months and one year and a maximum fine of 20,000 francs or by one of these penalties only.

TITLE III

Protection of Phonograms

CHAPTER I

Request for Authorization from Producers of Phonograms

Article 99. Without the authorization of the producer of phonograms, no person shall do any of the following acts:

(a) the direct or indirect reproduction of copies of his phonogram;

(b) the importation of such copies for distribution to the public;

(c) the distribution to the public of such copies.

CHAPTER II

Term of Protection for Phonograms

Article 100. The protection referred to in Article 99 above shall subsist for a period of 25 years as from the date on which the phonogram was published for the first time or was initially made.

CHAPTER III

Notice of Protection of Phonograms

Article 101. All copies placed in commerce of the published phonogram or their containers shall bear a notice consisting of the symbol Ⓟ, accompanied by the year date of the first publication, placed in such a manner as to give reasonable notice of claim of protection.

Article 102. If the copies or their containers do not identify the producer by carrying his name, trademark or other appropriate designation, the notice shall also include the name of the owner of the rights of the producer. Furthermore, if the copies of the phonograms or their containers do not identify the principal performers, the notice shall also include the name of the person who, in the country in which the fixation was effected, owns the rights of these performers.

TITLE IV

Protection of Broadcasts made by Broadcasting Organizations

Article 103. Without the authorization of the broadcasting organization, no person shall do any of the following acts:

(a) the rebroadcasting of its broadcasts;
(b) the fixation of its broadcasts;
(c) the reproduction of a fixation of its broadcasts:

1. where the fixation, from which the reproduction is made, was done without its authorization;

2. where the broadcast was initially fixed in accordance with the provisions of Article 105 below, but the reproduction is made for purposes different from any of those referred to in that Article.

Article 104. The protection under this Title shall subsist for a period of 25 years as from the date on which the broadcast took place.

TITLE V

Limitations

Article 105. The Articles in Titles II, III and IV shall not apply where the acts referred to in those Articles are made for:

(a) private use;
(b) the reporting of current events, provided that no more than short excerpts of a performance of a phonogram or of a broadcast are used;
(c) use solely for the purposes of teaching or scientific research without going beyond the needs of one class or of one group of researchers;
(d) quotations in the form of short excerpts of a performance of a phonogram or of a broadcast, provided that such quotations are compatible with fair practice and are justified by their informatory purpose;
(e) such other purposes as constitute exceptions in respect of copyrighted works under Articles 18 and 19 of this Law.

Article 106. Where reproduction of copies of phonograms is intended for the exclusive purposes of teaching or of scientific research and the copies made exceed the needs of one class or of one group of researchers, a license shall be required from the Minister having responsibility for culture.

This license shall exclude any exportation of copies and shall stipulate for the producer of phonograms a fixed remuneration that shall take into account, in particular, the number of copies to be made and to be distributed.

Article 107. The authorizations required under the provisions of Titles II, III and IV for making fixations of performances and broadcasts, for reproducing such fixations, and for reproducing phonograms published for commercial purposes shall not apply where the ephemeral fixation or reproduction of such fixation is made by a broadcasting organization by means of its own facilities and for its own broadcasts, provided that:

(a) in respect of each broadcast of a fixation of a performance or of a reproduction thereof, the broadcasting organization has the right to broadcast the particular performance;
(b) in respect of each broadcast of a fixation of a broadcast and each broadcast of a reproduction of such a fixation of a broadcast, the broadcasting organization has the right to broadcast the particular broadcast;
(c) all fixations and any reproductions thereof are destroyed within the same period as that applying to fixations and reproductions of works protected by copyright under Article 19 of this Law, except for a single copy which may be preserved exclusively for archival purposes.

TITLE VI

Offenses and their Represssion

Article 108. Any person infringing or causing to be infringed the rights protected under this Part shall be punishable by imprisonment for between two months and one year and a fine not exceeding 20,000 francs or one of these penalties only.

Article 109. Civil proceedings arising from the exercise of neighboring rights shall be instituted in compliance with the statutory provisions in force.

TITLE VII

Field of Application of the Part II of this Law

Article 110. Works of performance shall be protected under the provisions of Title II in any of the following cases:

(a) where the performer is of Rwandese nationality or subject to the laws of the Rwandese Republic;
(b) where the performance has taken place on the territory of the Rwandese Republic;
(c) where the performance is fixed on a phonogram protected under Article 111;
(d) where the performance that has not been fixed on a phonogram is incorporated in a radio broadcast protected under Article 112.

Article 111. Phonograms shall be protected under the provisions of Title III in any of the following cases:

(a) where the producer is of Rwandese nationality or is a national of the Rwandese Republic;
(b) where the first fixation of sounds has been made in the Rwandese Republic;
(c) where the phonogram was published for the first time in the Rwandese Republic.

Article 112. Broadcasts shall be protected under the provisions of Title IV in any of the following cases:

(a) where the registered offices of the broadcasting organization are located on the territory of the Rwandese Republic;
(b) where the broadcast has been transmitted from a station located on the territory of the Rwandese Republic.

Article 113. This Part shall also apply to performances, phonograms and broadcasts that are protected under Conventions to which the Rwandese Republic is a party.

Article 114. The provisions of this Part concerning protection of performances, phonograms and broadcasts shall in no way be interpreted to limit or prejudice the protection of copyright.

PART III

Translation Licenses

CHAPTER I

Works to Which this Part Applies

Article 115. The provisions on translation licenses shall apply to works published in printed form or in any other similar form of reproduction.

CHAPTER II

Applications for Licenses

Article 116. Any person may, after the expiration of the period laid down in Article 117, apply to the Minister having responsibility for culture for a license to make a translation of the work into any of the languages referred to in Article 22 of this Law and to publish that translation in a printed or similar form of reproduction.

Article 117. No license shall be granted until the expiration of whichever of the following periods is applicable:

(a) one year from the date of first publication of the work where the application is for a license for translation into Kinyarwanda or Swahili;
(b) three years from the date of first publication of the work where the application is for a license for translation into French or English.

CHAPTER III

Grant of a License

Article 118. Before granting a license, the Minister having responsibility for culture shall determine that:

(a) no translation of the work into the language in question has been published in printed or similar forms of reproduction, by or with the authorization of the owner of the right of translation, or that all previous editions in that language are out of print;
(b) the applicant for the license has established that he either has requested, and has been denied, authorization from the owner of the right of translation or, after due diligence on his part, he was unable to find such owner;
(c) at the same time as addressing the request referred to in *(b)* above to the owner, the applicant for the license has informed any national or international information center designated for this purpose by the government of the country in which the publisher of the work to be translated is believed to have his principal place of business;
(d) if he could not find the owner of the right of translation, the applicant has sent, by registered mail, a copy of his application to the publisher whose name appears on the work and another such copy to any information center referred to in *(c)* above or, in the absence of such a center, to the Unesco International Copyright Information Centre.

Article 119. No license shall be granted unless the owner of the right of translation, where known or located, has been given an opportunity to be heard.

Article 120. No license shall be granted until the expiration of a further period of six months, where the three-year period referred to in Article 117*(b)* applies, or a further period of nine months, where the one-year period referred to in Article 117*(a)* applies.

Such further period shall be computed from the date on which the applicant complies with the requirements mentioned in Article 118*(b)* and *(c)* or, where the identity or the address of the owner of the right of translation is unknown, from the date on which the applicant also complies with the requirement mentioned in Article 118*(d)*.

If, during either of the said further periods, a translation into the language in question has been published in print or similar forms of reproduction, by or with the authorization of the owner of the translation right, no license shall be granted.

The formalities of application for a translation license cannot be validly presented until the three-year or one-year periods referred to in Article 117 have expired.

Article 121. For works composed mainly of illustrations, a license shall be granted only if the conditions for granting a reproduction license are also fulfilled.

Article 122. No license shall be granted when the author has withdrawn all copies of the work from circulation.

CHAPTER IV

Scope and Conditions of Applicability of the License

Article 123. Any license granted under this Part of the Law:

(a) shall be only for the purpose of teaching or research;

(b) shall only allow publication in a printed or similar form of reproduction and only within the territory of the Rwandese Republic. However, where the Minister having responsibility for culture certifies that facilities do not exist on the territory of the Rwandese Republic for such printing or reproduction or that existing facilities are incapable for economic or practical reasons of effecting such reproduction, the reproduction may be made outside the country if:

1. the country where the work of reproduction is done is party to the Berne Convention or to the Universal Copyright Convention;
2. all copies reproduced are sent to the licensee in one or more bulk consignments for distribution exclusively in the Rwandese Republic in accordance with the compulsory written contract between the licensee and the establishment doing the work of reproduction;
3. the said contract provides that the establishment engaged for doing the work of reproduction guarantees that the work of reproduction is lawful in the country where it is done;
4. the licensee does not entrust the work to an establishment specially created for the purpose of having copies reproduced of works for which a license has been granted under this Part of the Law;

(c) shall not extend to the export of copies made under the license, except as provided for in Article 124;

(d) shall be non-exclusive;

(e) shall not be transferable.

Article 124. Copies of a translation published under a license may be sent abroad by the Government or other public body provided that:

(a) the translation is into a language other than French or English;

(b) the recipients of the copies are of Rwandese nationality or are subject to the laws of Rwanda;

(c) the recipients will use the copies only for the purposes of teaching or research;

(d) both the sending of the copies abroad and their subsequent distribution to the recipients are without any commercial purpose.

Article 125. The license shall provide for remuneration in favor of the owner of the right of translation that is consistent with standards of royalties normally operating in the case of licenses freely negotiated between those concerned and the owners of the rights of translation.

Article 126. As a condition of maintaining the validity of the license, the translation must be correct and all published copies must include the following:

(a) the original title and name of the author;

(b) a notice in the language of the translation stating that the copy is available for distribution only on the territory of the Rwandese Republic;

(c) a copyright notice, if the work which is to be translated was published with such notice.

Article 127. The license shall terminate if a translation of the work in the same language and with the same content as the translation published under the license is published in print or similar forms of reproduction in the Rwandese Republic by or with the authorization of the owner of the right of translation, at a price reasonably related to that normally charged in the Rwandese Republic for comparable works.

However, the Minister having responsibility for culture shall ensure that the translation made by the owner of the right of translation or with his authorization shall not prejudice the moral rights of the licensee.

Any copies already made before the license terminates may continue to be distributed until the stock is exhausted.

CHAPTER V

Licenses for a Broadcasting Organization

Article 128. A license under this part of the Law may be granted to a domestic broadcasting organization, provided that the following conditions are met:

(a) the translation is made from a copy made and acquired in accordance with the laws of the Rwandese Republic;
(b) the translation is for use in broadcasts intended exclusively for teaching or for the dissemination of information of a scientific or technical nature to experts in a particular profession;
(c) the translation is used exclusively for the purposes specified in *(b)* above, through broadcasts that are lawfully made and are intended for the Rwandese public, including broadcasts made through the medium of sound or visual recordings that have been made lawfully and for the sole purpose of such broadcasts;
(d) sound or visual recordings of the translation may not be used by broadcasting organizations other than those having their headquarters in the country;
(e) all uses made of the translation are without any profit-making purpose.

A license may also be granted to a domestic broadcasting organization, under all of the preceding conditions stipulated in this Article, to translate any text incorporated in an audiovisual fixation that was itself prepared and published for the sole purpose of teaching or research.

CHAPTER VI

Applicability of Article 22 and of this Part of the Law

Article 129. Article 22 of this Law and the provisions on the grant of translation licenses shall apply to works whose country of origin is the Rwandese Republic or any other country party to the international conventions to which the Rwandese Republic has acceded.

PART IV

Reproduction Licenses

CHAPTER I

Works to Which this Part of the Law Applies

Article 130. Subject to Article 144, the provisions of this Part of the Law shall apply to works which have been published in print or similar forms of reproduction.

CHAPTER II

Application for Licenses

Article 131. Any person may, after the expiration of the period laid down in Article 132 below, apply to the Minister having responsibility for culture for a license to reproduce and publish a particular edition of a work in print or similar forms of reproduction.

Article 132. No reproduction license may be granted until the expiration of whichever of the following periods is applicable, commencing from the date of first publication of the particular edition of the work:

(a) three years for works dealing with the natural and physical sciences, including mathematics, and with technology;
(b) seven years for works of the imagination, such as novels, poetry, drama and music, and for art books;
(c) five years for all other works.

CHAPTER III

Grant of Reproduction Licenses

Article 133. Before granting a reproduction license, the Minister having responsibility for culture shall determine that:

(a) no offer for sale, by or with the authorization of the owner of the right of reproduction, of copies in print or similar forms of reproduction of that particular edition has taken place in the Rwandese Republic, to the general public or in connection with teaching or research, at a price reasonably related to that normally charged in the Rwandese Republic for comparable works, or that, under the same conditions, such copies have not been on sale in the country for a continuous period of at least six months;

(b) the applicant for the license has established that he either has requested, and has been denied, authorization from the owner of the right of reproduction, or that, after due diligence on his part, he was unable to find such owner;

(c) at the same time as addressing the request referred to in *(b)* above to the owner of the right, the applicant for the license has informed any national or international information center designated for this purpose by the government of the country in which the publisher of the work to be reproduced is believed to have his principal place of business;

(d) if he could not find the owner of the right of reproduction, the applicant has sent, by registered mail, a copy of his application to the publisher whose name appears on the work and another such copy to any information center referred to in *(c)* above or, in the absence of such a center, to the Unesco International Copyright Information Centre.

Article 134. No reproduction license shall be granted unless the owner of the right of reproduction, where known or located, has been given an opportunity to be heard.

Article 135. Where the three-year period referred to in Article 132 applies, no reproduction license shall be granted until the expiration of six months computed from the date on which the applicant complies with the requirements mentioned in Article 133*(b)* and *(c)* or, where the identity or the address of the owner of the right of reproduction is unknown, from the date on which the applicant also complies with the requirement mentioned in Article 133*(d)*.

Article 136. Where the seven-year or five-year periods referred to in Article 132*(b)* and *(c)* apply and where the identity or the address of the owner of the right of reproduction is unknown, no license shall be granted until the expiration of three months computed from the date on which the copies referred to in Article 133*(d)* have been mailed.

Article 137. If, during the period of six or three months referred to in Articles 135 and 136, distribution or offer for sale as described in Article 133*(a)* has taken place, no license shall be granted.

Article 138. No reproduction license shall be granted if the author has withdrawn from circulation all copies of the edition which is the subject of the application.

Article 139. Where the edition which is the subject of an application for a reproduction license under this Part is a translation, the license shall only be granted if the translation is in a language mentioned in Article 22 of this Law and was published by or with the authorization of the owner of the right of translation.

CHAPTER IV

Scope and Conditions of Applicability of the Reproduction License

Article 140. Any license granted under this Part of the Law:

(a) shall be for use only in connection with teaching and research;

(b) shall, subject to Article 143, only allow publication in a printed or similar form of reproduction at a price reasonably related to, or lower than, that normally charged in the Rwandese Republic for a comparable work;

(c) shall only allow publication on the territory of the Rwandese Republic and shall not extend to the export of copies made under the license; however, where the Minister having responsibility for culture certifies that facilities do not exist on the territory of the Rwandese Republic for such printing or reproduction or that existing facilities are incapable for economic or practical reasons of such reproduction, the reproduction may be made outside the country if:

1. the foreign country where the work of reproduction is done is party to the Berne Convention or to the Universal Copyright Convention;
2. all copies reproduced are sent to the holder of the reproduction license in one or more bulk consignments for distribution exclusively in the Rwandese Republic in accordance with the compulsory written contract between the licensee and the establishment doing the work of reproduction;
3. the said contract provides that the establishment engaged for doing the work of reproduction guarantees that the work of reproduction is lawful in the country where it is done;
4. the licensee does not entrust the work of reproduction to an establishment specially created for the purpose of having copies reproduced of works for which a license has been granted under this Part of the Law;

(d) shall be non-exclusive;
(e) shall not be transferable.

Article 141. The reproduction license shall provide for remuneration in favor of the owner of the right of reproduction that is consistent with standards of royalties normally operating in the case of licenses freely negotiated between the persons concerned and the owners of reproduction rights.

Article 142. As a condition for maintaining the validity of the license, the reproduction of that particular edition must be accurate and all published copies must include the following:

(a) the title and the name of the author of the work;
(b) a notice in the language of the publication stating that the copy is available for distribution only on the territory of the Rwandese Republic;
(c) a copyright notice, if the reproduced edition bears such notice.

Article 143. The license shall terminate if copies of an edition of the work in print or similar forms of reproduction are offered for sale in the Rwandese Republic, by or with the authorization of the owner of the right of reproduction, to the general public or in connection with teaching or research, at a price reasonably related to that normally charged in the Rwandese Republic for comparable works, if such edition is in the same language and is the same in content as the edition which is published under the reproduction license.

However, the Minister having responsibility for culture shall ensure that the reproduction made by the owner of the right of reproduction or with his authorization shall not prejudice the moral right of the licensee.

Any copies already made before the license terminates may continue to be distributed until the stock is exhausted.

CHAPTER V

License for Audiovisual Fixations

Article 144. Under this Part of the Law, a license may be granted:

(a) to reproduce in audiovisual form a lawfully made audiovisual fixation, including any protected works incorporated in it, provided that the said fixation was prepared and published for the sole purpose of teaching or research;
(b) to translate any text incorporated in the said fixation into Kinyarwanda, Swahili, French or English.

CHAPTER VI

Applicability of Article 23 and of this Part of the Law

Article 145. Article 23 and the provisions relating to the grant of reproduction licenses shall apply to works whose country of origin is the Rwandese Republic or any other country party to the international copyright conventions to which the Rwandese Republic has acceded.

PART V

Final Provisions

Article 146. All provisions contrary to this Law and to the Decree of June 21, 1948, on the protection of copyright are hereby repealed.

Article 147. This Law shall enter into force on the day of its publication in the Official Gazette of the Rwandese Republic.

General Studies

Reflections on the Copyright Protection of Adaptations of Phonograms and Broadcasts

Robert DITTRICH*

I.

The Austrian Copyright Law is based on the *concept of copyright in the broad sense*, encompassing both copyright in the strict sense (protection of authors) and neighboring rights. A feature of its structure is that numerous items that are regulated, including in particular the basic notions of reproduction, distribution, public communication and broadcasting, are specified only once, in Part I that governs copyright in the strict sense, and subsequently the relevant provisions are stated to apply by analogy in respect of neighboring rights.

The subject matter of copyright in the strict sense is a *work* and that of neighboring rights is a *performance*, a *photograph*, a *phonogram* or a *broadcast*; the subject matter of protection therefore varies. Different performances of a work can be given simultaneously or at different times and each of those performances generates different rights even where given by the same artist (or artists). The same performance can be (simultaneously) recorded by different phonogram producers each on a different phonogram (although this hardly ever happens in practice and is therefore only a theoretical case). Different rights in differing fixations are thereby generated in favor of differing owners of rights. Each performance may be broadcast by differing broadcasting organizations — either live or by means of a phonogram or videogram — simultaneously or with a time differential. This leads to the existence of various rights even where the same performance has been broadcast at different times by the same broadcasting organization. All such rights are *independent of each other*.

As a result, the consent of the author to the exploitation of his work, possibly required by copyright in the strict sense, is not affected by the neighboring rights and, conversely, approval required on the basis of a neighboring right does not become superfluous by reason of the fact that the author's consent may not be required.[1] The same applies to the relationship of the owners of neighboring rights between each other.

The legislative technique described above in no way changes the fact that the rights are independent of each other, but simply means that the resulting legislative text is considerably shorter.

II.

Copyright in the strict sense is to be found in Part I of the Copyright Act, with the title "Copyright in Works of Literature and Art." Its Article 5,[2] entitled "Adaptations" reads as follows:

> (1) Without prejudice to any copyright subsisting in the adapted work, translations and other adaptations shall be protected as new works, provided they are original intellectual productions of the adapter.
>
> (2) The use of a work in creating another work shall not make the latter an adaptation, provided it constitutes an independent new work as compared to the work used.

Thus, copyright in the strict sense comprises a dependent copyright in an adaptation where, in the same way as for an original work, it demonstrates sufficient individuality.[3]

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[1] As in the comments to the Rome Convention on neighboring rights, (No. 248 of the Annexes to the Verbatim Minutes of the National Council, 13th Legislature, 22, reproduced in Dittrich, *Österreichisches und internationales Urheberrecht*, 513) referring to Dittrich, *Das Rom–Abkommen über die verwandten Schutzrechte*, Öbl. 1962, 21.

[2] Unless stated otherwise, references are to articles of the Austrian Copyright Act.

[3] Cf. in particular Dittrich, *Der urheberrechtliche Werkbegriff und die moderne Kunst*, ÖJZ 1970, 365.

III.

1. Looking at the above–mentioned referral provisions, it will be seen that although the quoted Article 5 does not apply "by analogy" to performances (Article 67(2))) it does, however, to photographs (Article 74(7)),[4] phonograms (Article 76(6)) and broadcasts (Article 76a(5)).

This legal situation has existed for performances, photographs and phonograms since the entry into force of the Copyright Act (July 1, 1936) and for broadcasts since the entry into force of the 1972 Copyright Amendment Law (June 1, 1973), prior to which there had been no protection at all for broadcasts. The background material to the basic Act and to the 1972 Copyright Amendment Law provide no information on the question dealt with here.

2. Article 5 applies in the field of neighboring rights "by analogy," with the exception referred to. This means, firstly, that a dependent neighboring right is possible in respect of the subject matter of neighboring rights.

The Copyright Act treats original works and adaptations of works in the same way insofar as that to qualify for protection they must in both cases be "original intellectual productions" of the author of the original work or of the author of the adaptation, respectively. This parity of treatment has also been adopted for neighboring rights through the application "by analogy" of the phrase "provided they are original intellectual productions of the adapter." If the phrase "provided they are original intellectual products of the adapter" is not to be interpreted, when applied to neighboring rights, at variance with the recognized principle of interpretation which says that every provision must have a meaning,[5] it can therefore only be taken to mean that a dependent neighboring right does not necessarily derive from every modification of the subject matter of a neighboring right. Application "by analogy" of Article 5(2) also means that there exist uses of the above–mentioned subject matter of neighboring rights that (only) qualify for an original neighboring right (this exploitation is therefore not comprised in the neighboring rights in the subject matter that has been used).

The earlier authors of the 1972 Copyright Amendment Law[6] rightly took the stance that a sound recording constituted a personal performance in the case of recordings of a high artistic value and that it was therefore appropriate to stipulate that the producer of the sound recording was not the natural person who had effected the recording but the relevant enterprise (Article 76(1), last sentence). The emission of a broadcast, on the other hand, was almost exclusively a technical process and in such case there was no need for an explicit legal presumption to make it clear that the rights belonged to the broadcasting organization and not, for instance, to the technician operating the transmitter. There also exist sound recordings that may be qualified as "practically" constituting "an exclusively technical process" but are nevertheless protected since the first sentence of Article 76(1) refers simply to the recording of acoustic performances on a phonogram for the repeated reproduction of sounds. The context in which the lawmaker of the day took a stance on this question in connection with the 1972 Copyright Amendment Law gave no reason to deal similarly with photographs. If the opinion I have expressed elsewhere,[7] that photographic works are also in all cases (simple) photographs, is adopted, the statement made in this case in respect of phonograms equally applies to photographs.

Since qualification for protection demands simply the taking of a photograph (Article 74(1), first sentence), the recording of acoustic performances on a phonogram or the emission of a broadcast,[8] it is not necessary that "a personal performance"[9] be involved. The adoption of the phrase "provided they are original intellectual productions of the adapter" can therefore only mean that an adaptation exists in the case of a performance that is comparable with the performance on which the original neighboring right was based.

3. There exists no reported case law on the question dealt with here and I am as yet unaware of any unreported cases. Legal writings on the matter are few and far between and in fact are limited to two voices, namely Peter[10] and a passing contribution by myself.[11]

Peter has reproduced the provisions now referred to in Articles 74(7) and 76(6), drafted in the way he

[4] Up to the 1982 Copyright Amendment Law, Article 76(5).

[5] Supreme Court, 1.3.1971 (enlarged Senate), JBl. 1971, 525 = SZ 44/25 = EvBl. 1971/213 = 1971, 106.

[6] Commentary 239 of the Annexes to the Verbatim Minutes of the National Council, 13th Legislature, reproduced in Dittrich, *Österreichisches und internationales Urheberrecht*, 67.

[7] *Sind Lichtbildwerke gleichzeitig Lichtbilder?*, Öbl. 1978, 113.

[8] The Copyright Act (Article 76a(1), first sentence) speaks of "Anyone who broadcasts sounds or images by radio" and the Commentary (cf. footnote 6) of the "emission of broadcasts."

[9] Literally so in the Commentary (cf. footnote 6).

[10] *Das österreichische Urheberrecht*, 194 and 222 *et seq.*, emphasis removed by me.

[11] Dittrich, section on Austria, in Stewart, *International Copyright and Neighbouring Rights*, 311 *et seq.*

considers them to result from application "by analogy."[12] As regards protection of photographs, he has read Article 5 as follows[13]:

(1) Without prejudice to the rights of the maker of the photograph or film, adaptations of a photograph or film shall be protected as new works, provided they are original intellectual productions of the adapter.

(2) The use of a photograph or of a film in creating a work protected by copyright shall not make the latter an adaptation, provided it constitutes an independent new work as compared to the photograph or film used.

In his comments on this text, he states, *inter alia*,[14] that examples of adaptations of a photograph or film are constituted by the use of a photograph as a model for a work of plastic art or the use of a film in the framework of a cinematographic work when such use cannot be held to constitute an independent new creation. Details, enlargements, reductions, coloring, film cutting and the like, constitute simple modifications. The use of a photograph or a film representing a deceased person for the creation of a painted portrait or a sculpted bust of the deceased person or of a cinematographic work concerning the deceased person, would constitute, depending on the type of utilization, either an adaptation of the photographic portrait or of the film or an independent new creation. A montage of photographs made by others is to be considered an independent adaptation or an independent new creation (and not simply a modified reproduction of the photographs used), only where it constitutes a work of photographic art (work of photography) within the meaning of Article 3.

He furthermore reads Article 5 as follows when applied "by analogy" to the protection of phonograms[15]:

(1) Without prejudice to the rights of the phonogram producer, adaptations of acoustic performances recorded on a device for the repeated reproduction of sounds, shall be protected as new works, provided that they are original intellectual productions of the adaptor.

(2) The use of a device for the repeated reproduction of sounds in creating works protected by copyright shall not make the latter an adaptation, provided it constitutes an independent new work as compared to the device for the repeated reproduction of sounds used.

In his comments, he says, *inter alia*,[16] that one example of adaptations of an acoustic performance recorded on a phonogram is the creation of an orchestral accompaniment to the original sound recording of an Indian folk song and their joint fixation on a new phonogram. Cuts, changes of pitch and similar technical interventions are simple modifications; unchanged or changed reproduction (cf. Article 76(1), second sentence) of individual parts of sound recordings made by others on a new phonogram does not constitute a new recording enjoying protection as an adaptation but simply a reproduction of parts of sound recordings used, since neighboring rights in adaptations in favor of the user of sound recordings made by others could not be justified even if Article 5 is applied by analogy. The point of reference and justification for protecting adaptations under copyright is to be found in the dependent creative act of the adapter; however, it is this very point of reference that is lacking in the case of an adapted sound recording; the phonogram producer possesses only the same defense against such changes as the producer of photographs and films. For example, the inclusion of parts of a record of a famous violinist in a cinematographic work on the life history of that violinist would be an act falling under paragraph 2.

This opinion expressed by Peter is indeed quite incompatible with the structure of the Copyright Act that is based on differing subject matter of protection. Under the application "by analogy" of Article 5, there must always be an adaptation of the *subject matter of protection in each case.* My view is that such an adaptation exists where a photograph has been touched up to achieve a new artistic effect or when an enlargement has been made whereby the perspective is changed by setting the enlarging apparatus at an angle to the projection surface, where a phonogram is subjected to a remixing of the various channels, suppression of unwanted noise in old recordings and/or the inclusion of echo effects,[17] or where unwanted noise is filtered out of an old broadcast for use in a radio program.[18]

IV.

Nevertheless, the operations mentioned by Peter are not free: just as in accordance with Article 1(2) a work does not only enjoy copyright protection as a whole but also in its parts, a neighboring right is therefore also concerned when a part only of the subject matter of protection is used in another manner for which the consent of the owner of the neighboring right is required. Article 1(2), which is not mentioned in the referral paragraphs, constitutes a general legal concept which could be derived from general principles even if the law had not explicitly

[12] Peter, *Das österreichische Urheberrecht*, was published in 1954 but neighboring rights for broadcasts — as already explained in III(1) of the text — were not introduced until 1972.

[13] p. 194, emphasis removed by me.

[14] p. 194.

[15] p. 211, emphasis removed by me.

[16] pp. 211 *et seq.*

[17] Dittrich, *op. cit.* (footnote 11), 318 under 13. 18.

[18] Dittrich, *op. cit.* (footnote 11), 320 under 13. 22.

laid it down in this case.[19] It is also to be applied by analogy in the field of neighboring rights.[20] The use of a subject matter of a neighboring right in the creation of a *work* in no event constitutes an adaptation of the subject matter of the neighboring right, but an original copyright insofar as the work created does constitute an independent work compared with the subject matter of the neighboring right that has been used.

This clear distinction between the various subject matters of copyright protection in the broad sense is of significance for the term of protection, for both free and other uses and for reference to foreign law.

(WIPO translation)

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[19] Thus the general view on the Copyright Act (e.g. Fromm–Nordemann, *Urheberrecht*, 5th edition, 81), on the Berne Convention (e.g. Report of Main Committee II of the Stockholm Diplomatic Conference, 76; in German in Roeber, *Das stockholmer Vertragswerk zum internationalen Urheberrecht*, 413, and Nordemann–Vinck–Hertin, *Internationales Urheberrecht*, 33) and on the Rome Convention (e.g. General Report on Article 10, Records of the Diplomatic Conference on the International Protection of Performers, Producers of Phonograms and Broadcasting Organizations, 46 *et seq.*, and Nordemann–Vinck–Hertin, *Internationales Urheberrecht*, 310).

[20] Cf. e.g. Koziol–Welser, *Grundriss des bürgerlichen Rechts*, I, 6th edition 22.

Correspondence

Letter from the German Democratic Republic

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The adoption of the Copyright Law of the German Democratic Republic, of September 13, 1965,[1] created a stable basis for protecting the rights of authors, of performers and of the owners of other related rights. The new Civil Code of the GDR, of June 19, 1975,[2] and the new Labor Code of the GDR, of June 16, 1977,[3] have expanded and specified the general civil law and labor law provisions for the promotion of authorship by the socialist State and its copyright law. The GDR law of copyright contracts, in particular, has been further developed by the introduction of new model contracts and the establishment of new State schedules of fees. The position of the GDR in international copyright has been further developed by its accession to the 1971 Paris Act of the Berne Convention and the 1971 Paris Act of the Universal Copyright Convention. The courts of the GDR have backed up this development by their decisions at focal points in the implementation of law. This aspect is of particular importance in protecting the moral and economic interests of authors in their works in view of the new media that exist for disseminating works, the resultant mass nature of copyright relationships and the financial obligations deriving therefrom.

I. Respect for the Personality of the Author as a Principle of Civil Law

The author's right, that the Law affords him on the creation of his work, is designated in Article 13 of the Copyright Law as a socialist personal right, from which both moral rights and economic rights derive. The Civil Code has confirmed this position and has defined it in more detail by incorporating the right of the author within the general civil law principle of respect of personality. This principle is laid down as follows in Article 7 of the Civil Code:

> Every citizen has the right to respect for his personality, particularly his honor and reputation, his name, his image, his copyrights and other similar protected rights deriving from creative activity. He is required to likewise respect the personality of other citizens and their rights deriving therefrom.

Thus, the legal principle of respect for creative personality, on which Articles 11, 17 and 18 of the Constitution of the GDR are based, is expressed in the law of copyright. Subjective copyright differs under this concept of GDR legislation from the general rights of personality afforded automatically to every citizen, such as the right to respect for honor, reputation, name and one's own image, in that it is a right linked to a work. It is afforded, as emphasized on numerous occasions in court decisions, exclusively to a person who has proved himself to be an author through his individual creative work expressed in a form that may be objectively perceived. This also implies the need to delimit the work, as the subject of copyright, from those products that result from purely mechanical intellectual work in which no copyright exists. It is a matter not only of evaluating copyright in the theory of law, as a component of the civil law principle of respect for personality, but also, in accordance with Article 327 of the Civil Code, affording protection to that right by means of sanctions to be applied in the event of its infringement, such as the right to removal of the unlawful situation (re-establishment), the right to restrain present and future infringements and the right to compensation for material damage suffered on account of the infringement.

The sanctions laid down in Article 91 of the Copyright Law in respect of infringements of copyright, although basically the same, have to be regarded as a specific law in relation to Article 327 of the Civil Code. This special provision of the Copyright Law differs from the general provision of Article 327 of the Civil Code, in particular, in that the right to re-establishment of the former situation is formulated in a way that favors the legal position of the author. If the author's rights are infringed, he can invoke Article 91(1) of the Copyright Law in

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[1] GBl. I, p. 209.

[2] *Ibid.*, p. 465.

[3] *Ibid.*, p. 185.

order to obtain, in addition to public rectification and other measures for restoring the lawful situation, "payment of remuneration in respect of the unlawful utilization that has already been made of his work." This claim to remuneration requires simply that the copyright should have been objectively infringed and is not dependent on any culpable behavior on the part of the infringer. This is also derived from Article 91(2) of the Copyright Law, which stipulates that the owner of the right may require compensation for any material damage he may have suffered, in addition to the remedies specified in paragraph (1) of that provision where the infringement has been committed in a culpable manner; the claim therefore extends solely to making good material damages, in addition to the claim to subsequent payment of the fee for using the work (remuneration) under Article 91(1) of the Copyright Law. On the other hand, the general provision of Article 327 of the Civil Code contains a remedy of importance for owners of copyright, that also forms part of the claim to re-establishment or at least supplements that claim. In accordance with Article 327(1)(4) of the Civil Code, an author may — likewise irrespectively of culpable behavior on the part of the infringer — require the courts to establish the unlawful infringement of his right; he can assert this declaratory claim without having to justify an interest in a declaratory judgment as he would normally have to do under the general provision of Article 10(1)(3) of the new GDR Code of Civil Procedure, of June 19, 1975,[4] in the shape of a legal interest in a prompt court finding as required for actions of this kind. The fact that the legal remedies provided by Article 91 of the Copyright Law and Article 327(1) of the Civil Code are available not only to citizens but also to legal persons (cultural institutions, enterprises, etc.), where they exercise or manage copyright powers assigned to them by the author or granted to them by the law, follows from Article 327(2) of the Civil Code, under which such claims may also be asserted by enterprises (in the broad sense of enterprise as used in Article 11 of the Civil Code).

Together with the Civil Code, new regulations on the statutes of limitations also entered into force for the implementation of these sanctions on copyright infringements. Under Article 474(1)(3) of the Civil Code, the period of limitation for non-contractual claims is set at four years. This period begins, according to Article 475(2) of the Civil Code, at the time at which the owner of the right obtains knowledge of the existence of his claim and of the identity of the liable person; however, limitation takes place at the latest on expiry of 10 years after completion of the infringing act (foreclosure).

[4] *Ibid.*, p. 533.

II. Developments in the Law of Copyright Contracts

The entry into force of the Civil Code also constituted the start of a new phase in the development and application of the Law on Copyright Contracts of the GDR. This field of law had already been conceived as an integral part of the Copyright Law and incorporated therein (Articles 36 to 72). Relationships under copyright contracts are particularly important for legal practice, that is to say for the effectiveness of the copyright as a whole and for the exercise of the authors' rights. The GDR Law on Copyright Contracts uses a solution based on a model contract between the author and the cultural institution that disseminates his work in society, whereby the transfer to the cultural institution of the right of utilization constitutes a non-waivable condition for this type of civil law contract (cf. Articles 37 and 38 of the Copyright Law).

Copyright contracts (usually referred to in the GDR as "work utilization contracts") are a type of contract that is governed by provisions outside the Civil Code — that is to say in the Copyright Law and in its subsidiary provisions. However, it is the Civil Code, with its general provisions concerning contracts, including the rules on material liability for breach of contract (Articles 43 to 93 of the Civil Code), that provides the general civil law "hinterland" for the formulation, application and interpretation of the Law on Copyright Contracts. The requirements of Articles 82 to 93 of the Civil Code concerning the liability for breach of obligations deriving from contracts merit particular emphasis in view of their consequences for copyright relationships; the Civil Code provisions on material liability for damages (Articles 330 *et seq.*), constitute a uniform law of damages in respect of both contractual and non-contractual copyright relationships, which also applies to the consequences of breach of contract in accordance with Article 93 of the Civil Code. For instance, where a member of the staff of an enterprise carrying out the tasks for which he is responsible within the enterprise commits an act that infringes copyright, it is for the enterprise alone — whether the copyright relationship be contractual or non-contractual — to make good the damages. The employee has no obligation to indemnify the injured party under Article 331 of the Civil Code, whereby the possibility of recourse by the enterprise under labor law[5] or other provisions is not affected.

[5] Under Article 261(2) of the Labor Code, an employee is only materially liable to his enterprise for negligently caused damages — an obligation to pay in respect of third parties entered into by the employee on behalf of the enterprise also constitutes such damage — up to the amount of the monthly tariff wages that he has received at the time the damage occurs.

Claims deriving from contracts, in particular as regards the remuneration to be paid to the author, are subject to a two-year limitation under Article 474(1)(2) of the Civil Code; the period begins, in accordance with Article 475(3) of the Civil Code, on the first day of the month following the day on which the claim can be asserted. In the case of claims for damages deriving from contracts, the same four-year period of limitation applies as for non-contractual claims (see above).

The GDR law of copyright contracts is essentially characterized by the network of model contracts and State schedules of fees established since the promulgation of the Copyright Law. Model contracts have been drafted and published to establish the content of copyright contracts, in accordance with Article 41(1) of the Copyright Law, by the Ministry of Culture — and by the State Committee for Radio and the State Committee for Television in their fields of competence — in collaboration with the professional organizations of authors (e.g. with the writers' association and the composers' association). This applies not only to such traditional areas of the law of copyright contracts, such as literature, theater and journalism, but also for the radio, television and film media. In these latter fields, basic contracts serve a similar function to the model contracts; publications include a basic contract with attached model contract between the Ministry of Culture and the State Committees for Radio and Television in respect of performance contracts concerning theatrical works, of January 1, 1974, [6] the General Conditions for film authors with attached model for screenplay contracts, of February 20, 1975,[7] and a basic contract for authors (television plays) with attached model "screenplay contract," of March 15, 1977.[8]

The model contracts and the basic contracts do not constitute statutory provisions, that is to say they are not generally binding. It is only in the relationship between the central body that publishes them and its subsidiary cultural institutions that the provisions contained in the model contracts constitute a compulsory formulation or a compulsory model for drawing up individual contracts concluded with authors. Attention must, however, be paid to Article 41(2) of the Copyright Law: where a copyright contract fails to specify certain things, e.g. the type and scope of the transferred authorization to use the work, it is the ruling laid down in the model contract that is deemed to constitute the content of the contract. The model contracts therefore also serve for the supplementary interpretation of the content of a copyright contract, so that in those cases it is not necessary to have recourse to general principles of interpretation, such as that of assignment being limited to the intended purpose.

The State schedules of fees in the GDR are based on a decision taken by the GDR Council of Ministers of November 4, 1970, on the achievement of order and discipline in respect of services for which fees are charged.[9] These schedules of fees are not limited to setting out the range within which remuneration for certain types of service is to be charged, but also contain, in particular, the criteria that determine the basis and the amount of the fee to be paid in accordance with the socialist principle of performance. In addition, the schedules of fees contain the requirements in respect of the conclusion and contents of work utilization contracts. They also include provisions, particularly as regards the creation of commissioned works under social commissions in the artistic field, designed to ensure uniform formulation and application of the law of copyright contracts for entire fields of authorship. A particular example is that of the Order concerning general conditions for the preparation and conclusion of contracts for the creation of works of fine art and of applied art — fine arts fee schedule — of October 10, 1978,[10] which constitutes an important basis of contractual law in the relationships between social commissioning authorities and artists that take on the commissions. This promotion of artistic creation with the help of copyright is linked to other measures taken by the State to support authors, particularly the up and coming artists. Mention must be made, in this context, of the GDR Cultural Fund, an institution which has proved its worth and for the benefit of which a tax is levied on the sale of tickets, particularly those for cultural events. Under its new Statutes of April 18, 1974,[11] it will have much greater financial means available than hitherto not only to support the commissioning of works of art, but also for the general improvement in the working and living conditions of authors, in collaboration with their associations. The fact that atten-

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[6] Orders and Communications of the Ministry of Culture, 1974, No. 5, p. 37.

[7] *Ibid.*, 1975, No. 5, p. 37.

[8] Communications of the Association of Film and Television Employees of the GDR, 1977, No. 1, p. 48.

[9] GBl. II, p. 631.

[10] Orders and Communications of the Ministry of Culture, 1978, No. 5, p. 41. In the meantime, a model contract of November 22, 1983 (Orders and Communications of the Ministry of Culture, 1983, No. 3, p. 20) has been published as a recommendation for drawing up contracts in respect of performances to be accomplished in accordance with the schedule of fees for fine arts. The special nature of this model contract, as a recommendation, also demonstrates that the application of Article 41(2) of the Copyright Law in this case, that is to say the possibility described above of interpretative filling of the gaps in individual contracts by the contents of the model contract, does not apply.

[11] GBl. I, p. 266.

tion is paid not only to material but also moral recognition of artistic creation is demonstrated, *inter alia*, by the consideration given to highly creative works on the part of urbanists and architects under the Order concerning plaques to be placed on works of architecture, of April 12, 1983,[12] under which name plaques denoting particular creativity are to be placed on significant works of architecture.

III. Uniform Judicial Practice in Copyright Proceedings

The new GDR Judicature Law of September 27, 1974,[13] initiated a new stage in the practice of courts in the field of copyright. Under Article 30(3) of the Law, the Regional Court of Leipzig is exclusively competent for hearing and deciding legal proceedings involving copyright. In place of the usual sequence of instances from district court to regional court, which also applied to copyright, this was replaced by the sequence Regional Court of Leipzig to Supreme Court of the GDR, which thus became the general court of appeal for copyright proceedings. This concentration of judicial activity also serves to ensure uniform decisions with greater effectiveness as a result of the court's specialized knowledge in such matters of social significance. Today — after almost 10 years — it can already be seen that the advantages of this arrangement emerge ever more clearly and that the practical implementation of copyright in the GDR draws ever-increasing benefit from it. This applies in particular for such focal points of the implementation of law as the concept of socialist copyright in the GDR and of the copyrighted work, the legal situation of the author and of the cultural institutions, including the content of copyright powers and the cultural policy aims, content and scope of free use of works in society.

The fact that the Regional Court of Leipzig also has exclusive competence for proceedings in the field of the law of copyright contracts, as is fully appropriate to the concept of copyright in the GDR as described above, has been confirmed with emphasis by the City Court of Berlin — capital of the GDR — in its decision of May 13, 1980 (BZB 88/80).[14] These proceedings concerned the property rights in the sketches for 40 original graphic works which both parties, the commissioning enterprise and their author as the commissionee, claimed for itself.

The enterprise held that copyright was of no account in the decision that had to be taken since the proceedings concerned only the property rights in the graphic works and not the author's copyright. However, the Court pointed out that the question of transfer of property could only be judged against the contents of the fee contract concluded between the parties, which constituted a contract of copyright law, and therefore the dispute arising from the claim for restitution that had been asserted was clearly of a copyright nature. This assessment of the proceedings meant that the case had to be referred to the competent Regional Court of Leipzig in accordance with paragraph 30(3) of the Judicature Law.

In its decision of September 14, 1979 (4 BCP 13/79),[15] the Regional Court of Leipzig took a stance for the first time as regards possible copyright protection for computer programs, particularly on the question whether such scientific and technical productions, which in the meantime have been explicitly excluded from protection for inventions under the new Law on the Legal Protection of Inventions — Patent Law — of October 27, 1983,[16] can be defined as scientific works within the meaning of Article 2 of the Copyright Law. In the case in point, after taking evidence and analyzing the individual parts of the program, the Court held that such was not the case. It came to the conclusion that both the new processes for structural calculations developed by the plaintiffs and also the problem analyses and problem solutions derived from them, together with the technical programming solutions, did not themselves constitute works within the meaning of the Copyright Law since they were lacking both the form and expression required for copyright protection.

In this decision, the Court also examined the possibility of neighboring rights in the computer programs involved. It first pointed out that Articles 73 *et seq.* of the Copyright Law afforded no general neighboring right, but legal protection related to the concept of work defined in Article 2 of the Copyright Law, solely for certain performances in individual cases that were set out in detail in the Law, including "the performed works of designers of plans and sketches intended for scientific or technical purposes" (Article 78(1)(b) of the Copyright Law). Apart from the fact that computer programs are not set down in the form of the plans or sketches referred to in this provision, these programs were also defective in that they had not been created by operating a degree of choice between various possibilities in an individually specific way and that they therefore did not qualify for neighboring rights.

The questions of the relationship between copyright protection and neighboring rights protection

[12] *Ibid.*, p. 127.
[13] *Ibid.*, p. 457.
[14] *Neue Justiz*, 1980, No. 8, p. 380.
[15] *Ibid.*, 1981, No. 5, p. 236.
[16] GBl. I, p. 277.

and the possibility of free use of performances under a *mutatis mutandis* application of the provisions on free utilization of works (Article 83 of the Copyright Law) also formed the subject matter of a decision by the Supreme Court of the GDR on April 7, 1983 (4 OPB 1/83).[17] The main concern was for design drawings that served as the basis for building functional sailing yachts offering particular advantages of handling. The Court held that these drawings did not constitute artistic or scientific performances and also that the technical performances that had been achieved and documented in the drawings therefore represented no basis for copyright protection. The fact that, in the case in point, the technician had also taken aesthetic aspects into account in his design did not mean however that the drawings or the technical subject matter itself were works of art; the aesthetic aspects took second place, as could be seen from the general view according to the drawings, behind the functional characteristics of the design and did therefore not determine the fabricated objects, the sailing yachts, in such a way that they could be deemed works of art within the meaning of Article 2 of the Copyright Law. The drawing did however enjoy the special neighboring right protection under Article 78 of the Copyright Law that was afforded to designers of plans, sketches, illustrations and three-dimensional representations. In the case in point, this could not justify a claim to remuneration on the part of the designer since the defendant, in constructing the hull of the boat, if this indeed was done on the basis of the plaintiff's design drawings, had simply made free use of the work for personal purposes within the meaning of Articles 23 and 83 of the Copyright Law, particularly since this personal utilization had not released to the public the boat which was the subject matter of the neighboring right.

The new arrangement for judicial competence in the field of copyright law has proved of great advantage in the assertion before the courts of claims to remuneration pursued by the Institute for the Protection of Performing Rights in the Field of Music (AWA) in accordance with the Ordinance of March 17, 1955.[18] For a long time it had been unclear whether AWA could also go to court in the case of disputes between partners, for instance between AWA and a catering establishment, for which — under commercial law — the State Court of Contracts of the GDR would otherwise be competent. The Supreme Court resolved this question in its decision of February 10, 1981 (40 PK 1/80)[19] on the basis of the fact that in accordance with paragraph 4(1) of the Judicature Law, unless otherwise prescribed by statutes, the courts are competent to hear legal disputes in the field of civil law and that these also comprise authors' claims to remuneration asserted by AWA. Additionally, this consequence also derived from Article 30(3) of the Judicature Law; the fact that competence had been determined in this special way meant that it was to apply irrespective of the type of party to the dispute, that is to say also in cases in which, as in proceedings instituted by AWA against a catering enterprise, the regulations concerning the tasks of the State Court of Contracts would make that body competent. However, this fact in no way affected the competence of the District Court in respect of a demand for payment requested from the courts by AWA under Articles 15(1), 20(1) and (2)(3) of the Civil Procedure Code; only if the debtor were to appeal against the demand for payment would it be necessary to hand over the case to the Regional Court of Leipzig or, if the consent of the creditor was not obtained, to refer it to that Court (cf. Articles 26 and 27 of the Civil Procedure Code).

As regards the continued applicability of sanctions for failure to comply with the obligation to pay fees, as provided for in the AWA Ordinance, the Regional Court of Leipzig took a decision of principle, following the entry into force of the new Civil Code, in its judgment of May 4, 1979 – 4 BZP 8/79.[20]

The defendant in this case had manufactured 185 tape cassettes by recording them from records and had made them available to the public by distributing them through lists of offers without having been in possession of either the right of mechanical reproduction or that of distribution. Among the sanctions for failure to comply with the obligation to pay fees by promoters, the AWA Ordinance states in Article 12(3) that

> ... if the obligation to pay fees is not complied with, AWA shall be entitled to require payment of damages in accordance with civil law prescriptions, whereby twice the amount of the fees in general, without detailed justification of the damages, shall be deemed appropriate.

The defendant appealed against this duplication of the fees on the grounds that he had not willfully failed to comply with his obligation to pay. The Regional Court of Leipzig held that, although this doubling of the fee as a statutory regulation of damages without the requirement to justify the damage in detail was not supported by the law on damages in the Civil Code, it nevertheless complied with the principles of the Civil Code as a civil law "sanction fee" adapted to the particularities of copy-

[17] *Neue Justiz*, 1983, No. 7, p. 302.

[18] GBl., p. 313, in the version established by the Adaptation Order of June 13, 1969, GBl. II, p. 363.

[19] *Neue Justiz*, 1981, No. 8, p. 378.

[20] *Ibid.*, 1981, No. 1, p. 44.

right enforcement. What the Court failed to take into account was the fact that the Copyright Law, promulgated more than 10 years after the AWA Ordinance, considers the payment of the single fee not as damages but as a form of restitution claim under Article 91(1) and therefore the obligation to pay exists irrespective of any culpability on the part of an infringer. Secondly, it must also be pointed out that the new version of the law on damages in Articles 330, 333 and 334 of the Civil Code has improved the position, compared with the earlier situation, of the proprietor of the infringed copyright who has suffered material damage since it is no longer the person suffering the damage who is required to furnish proof of culpability on the part of the infringer, but such culpability is assumed where there exists cause and effect between the infringement of copyright and the occurrence of damages, and it is then for the infringer to exonerate himself from the charge against him (reversal of the onus of proof). The fact that the defendant claims to have acted without malice cannot, however, remove the fact that he at least negligently failed to comply with the obligation to pay fees. Thirdly, however, a doubling of the fee, as pointed out by Dr. H. Mochow, a judge of the Supreme Court of the GDR, in a note on this Court decision,[21] was altogether compatible with the principles of assessment of damages and determination of the amount of damages anchored in the Civil Code, particularly since the regulation under Article 12(3) of the AWA Ordinance required account to be taken of the special circumstances in the case of reproduction and distribution without consent of copyrighted works, and in particular of the frequency with which they were repeated and the administrative effort required to combat such infringements of the law.

A further decision on a principle of law — concerning the legal situation of disk jockeys in their relationship with AWA — was reached by the Supreme Court of the GDR in its judgment of October 23, 1983 (4 OPB 6/83).[22] In the case on which this decision was based, the defendant had been found during a visit to his discotheque to be in possession of 23 self-recorded tapes not licensed by AWA, that were available on his disk jockey's desk ready to be played. The defendant's main objection to the claim for payment asserted by AWA was that it had not been proved that the 23 tapes had been publicly performed by him in their entirety; the defendant thereby relied on the provision of Article 23 of the Copyright Law concerning free utilization of the work for reproduction for personal use. Both instances refused this submission. The view held by the Supreme Court was that all self-recorded tapes used by a disk jockey at a discotheque were to be considered reproductions intended for the purpose of public performance, at least where the disk jockey repeatedly performed activities of such a nature; the opposite view was unrealistic, it would unreasonably hinder verification and the right of reproduction of the authors would be inadequately preserved. Under such circumstances, reproduction for personal use could only be accepted where proof was furnished in the individual case. A further objection made by the defendant, that his predecessor, from whom he had procured the tapes, had had them licensed by AWA, was not accepted by the Supreme Court. It deduced from Article 2 of the AWA Ordinance that the tasks of AWA stipulated that AWA alone was entitled to give licenses. Re-assignment of a license that had been granted by the previous owner of the tapes to the defendant therefore relied on a performance that was legally impossible and thus null and void under Article 68(1)(3) of the Civil Code. The defendant could only have obtained a license through the personal conclusion of a contract with AWA meaning that if he had included the tapes in question in the discotheques run by him he would have to act as if they had been recorded by himself. Since Article 3 of the GDR Ordinance on Discotheques[23] also draws attention to the obligation to obtain a license, this legal obligation must have been known to the defendant and he had therefore failed to comply with it, by negligence at least, with the result that he was required to pay damages in accordance with Article 12(3) of the AWA Ordinance (see above).

It was also the relationship between the obligation to pay fees and free utilization of works that was the subject matter of a decision taken by the Regional Court of Leipzig on April 22, 1982 – 4 BZP 4/82.[24] The defendant, a transport undertaking, maintained, *inter alia*, three coaches for transporting groups of tourists to whom it played, during their travel, copyrighted works of music on tape cassettes. Despite the existence of a blanket agreement with AWA, the defendant refused to pay the agreed fees for performance on the grounds that the music on the cassettes was simply played during transportation, had no commercial purpose and merely took place to provide additional cultural entertainment to the travellers; he had therefore availed himself of the free utilization of works under Article 31 of the Copyright Law. Under that Article, public perfor-

[21] *Ibid.*, 1981, No. 1, p. 45.

[22] *Ibid.*, 1984, No. 3, p. 116.

[23] Order in respect of discotheque organizations of August 15, 1973 (GBl. I, p. 401) in the version of Order No. 2 of May 24, 1976 (GBl. I, p. 309).

[24] The basic content of this decision is reproduced in AWA Information 1982, pp. 41 *et seq.*

mances of a musical work which has already been published, or public recitations of an already disseminated literary work, are lawful when not effected with gainful intent, when the audience is admitted free of charge, and when the persons lending their assistance do not receive any remuneration; these three requirements must all be met before one can talk of a free performance within the meaning of this provision. Closer examination of the facts of the case and of the legal situation by the Regional Court of Leipzig showed however that in the case in point none at all of the three requirements were complied with. The Court explained that the travel organizer not only offered transportation as such but also cultural services which included the musical entertainment by means of music cassettes which were therefore included within the commercial purposes of the organizer. The individual traveller paid his money for the organizer's full services and one could therefore not speak of the audience being admitted free of charge. In addition, the performers whose performances were fixed on the tapes received contractual remuneration from the manufacturer of the phonograms and therefore the third criterion of public performance of music free of charge within the meaning of Article 31(1) of the Copyright Law was not met.

IV. Copyright under Employment Relationships

The legislation and case law of the GDR have paid great attention to the situation of the author where works are created under an employment relationship with an enterprise or institution. In view of the social significance of such copyright relationships, the exclusive competence of the Regional Court of Leipzig also applies to legal disputes in these fields of copyright activity.[25]

In the GDR, copyright in a work created in fulfillment of functions within an enterprise belongs to the author, in accordance with Article 20(1) of the Copyright Law. This fact was emphasized by the Regional Court of Leipzig in its judgment of February 19, 1974 (4 BC 5/73),[26] with the legal pronouncement that copyright in a work belongs to the person that has created the work irrespective of it having been created in fulfillment of obligations under labor law. At the same time, this judgment, in accordance with the orientation given by Article 20(1) of the Copyright Law, designated it as the task of the enterprise to regulate the other rights and duties of the employee that arise from the subjective copyright or are related to it within the framework of the existing labor law relationship.

The most important aspect in this case is to lay down as accurately as possible whether the employee is presumed to produce copyrightable performances as part of his tasks and to determine what type of performances these constitute. This results from Article 73(2) of the Labor Code. According to that Code, the enterprise must unequivocally set out the content of the tasks, including the areas of responsibility of the employee, and to lay them down in writing in job descriptions or other suitable form; the appropriate stipulations under the labor law relationship are also to be announced and explained to the author when the tasks are agreed. This is also important for the remuneration of the author since all those performances that he has to furnish in fulfillment of his tasks are remunerated in his wages or salary.

One possibility of laying down the mutual rights and obligations of the author and the enterprise for a large number of areas of the national economy in a form that is binding from a labor law point of view is that of the basic collective agreements concluded by the unions with the State organs under Article 14 of the Labor Code. Thus, for instance, the basic collective agreement on working conditions and wages of employees in nationalized and assimilated publishing houses — RKV publishing houses — of April 30, 1982,[27] contains in Annex 7 rules on the uniform application of copyright provisions in the relationships between the publishing houses and their employees working as journalists under a labor law relationship in accordance with Article 20(1) of the Copyright Law, which applies equally to textual or illustrative contributions and other journalistic work in the field of publishing in the GDR. These rules contain the tasks of journalistic staff vis-à-vis their publishing house, the utilization rights of the publisher in works created by staff under an employment relationship, the treatment of the moral rights of staff in such works and of the staff's own rights of utilization. These rules constitute an integral part of all employment contracts concluded with journalistically employed staff without specific reference being necessary in the individual contracts. In addition, enterprises and institutions in the GDR have frequently availed themselves of the possibility of regulating copyright matters that arise in the employment relationships between authors and enterprises within the framework of working

[25] Cf. Regional Court of Leipzig, footnote 15; also Supreme Court of the GDR, footnote 19, and District Court of Dresden — city district east — decision of September 15, 1979 (A 50/79), *Neue Justiz*, 1980, No. 2, p. 92.

[26] *Neue Justiz*, 1974, No. 17, p. 534.

[27] Reproduced in the series "Rahmenkollektivverträge" published by the State Publishing House of the German Democratic Republic, Berlin, 1982.

rules under Article 91 of the Labor Code or in a supplement or appendix to such rules. Copyright matters are to be settled by the director of the enterprise, in cooperation with the employees, within the framework of these working rules; their entry into force in respect of the enterprise is subject to approval by the enterprise's union committee, representing the interests of the authors.

It is no rarity for legal disputes to result from the fact that certain enterprises, contrary to the requirements of the Labor Code and of the Copyright Law, fail to draw up the necessary labor law definitions and clarifications in respect of authors, tasks and the enterprise's right of utilization. In such cases, the courts deal with the claims that have been asserted directly on the basis of Article 20 of the Copyright Law, which, however, also means that a careful analysis must always be carried out of the reciprocal obligations from the point of view of labor law. Thus, the Regional Court of Leipzig held in its above-mentioned decision of February 19, 1974,[28] that where there was a lack of an unequivocal ruling as to whether the work performed for the enterprise by the author — in the case in point it concerned the preparation of two brochures — belong to the tasks of the employee concerned, the author was to be paid suitable remuneration adapted to the performance, whereby the applicable schedules of fees normally used only for activities as an additional occupation or in a freelance capacity were to be used as a yardstick.[29]

Matters of copyright and neighboring rights of staff photographers have repeatedly been brought before the courts. Particular mention should be made of a judgment by the Regional Court of Leipzig on March 10, 1980 – 4 BZP 29/79.[30] The case concerned use within the enterprise of photographs of machines which the plaintiff had been required to make for his enterprise according to his job description, particularly the plaintiff's right to be named when the photographs were used in brochures, catalogues, display panels used at exhibitions and in publications falling within the enterprise's public relations work. Article 20 of the Copyright Law is applied *mutatis mutandis* (Article 81(3) of the Copyright Law) to the neighboring rights in photographs that do not constitute works within the meaning of Article 2 of the Copyright Law. When using the performance, the name of the copyright owner has only to be mentioned on request, but when this is done, it must be in the usual form. Therefore, if a staff photographer demands that his name be shown in the usual and appropriate form when photographs he has made under an employment relationship are used in public, then a refusal to comply with that request cannot invoke the fact, according to the judgment by the Regional Court of Leipzig, that the employee makes the photographs in fulfillment of labor law obligations and the enterprise has therefore a statutory right of utilization in the photographs. According to this decision, a staff photographer may demand that his enterprise state his name in connection with any utilization of the photographs when those photographs are made accessible to an unlimited number of persons, thereby constituting a case of public utilization. According to Article 20(2) of the Copyright Law, enterprises or institutions are entitled to utilize a work created by their staff under a labor law relationship for purposes that serve the direct fulfillment of their own tasks. The Court held that, in the case in point, the publication of machine photographs taken by the staff photographer by the enterprise in the relevant specialized publications as an integral part of its public relations work did not go beyond the statutory right of utilization afforded to it by Article 20(2) of the Copyright Law and that the photographer therefore had no claim to damages or to additional remuneration.

The decisions taken by the courts in the GDR, of which the above gives but a brief survey, shows the growing social significance of this branch of copyright characterized by the work of authors in a labor law relationship. Recognition and promotion of the intellectual creations of these authors and the protection of their rights and interests, when use is made of their works within enterprises or outside those enterprises, constitute an integral part of their social security in their professional activities. In this way also, the necessary conditions are created for rational utilization of the social work potential of these authors and for the full development of their intellectual and creative possibilities.

(WIPO translation)

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[28] Cf. footnote 26.

[29] As regards problems of referring to the appropriate State schedule of fees in the event of difficulties in classifying certain performances, see also Supreme Court of the GDR, decision of May 2, 1978 (4 OPB 3/78), *Neue Justiz*, 1978, No. 7, p. 320.

[30] *Neue Justiz*, 1981, No. 12, p. 572.

Activities of Other Organizations

Council of Europe

Committee of Legal Experts in the Media Field

(Strasbourg, September 11 to 14, 1984)

The Committee of Legal Experts in the Media Field, hereinafter referred to as "the Committee," met at the headquarters of the Council of Europe in Strasbourg from September 11 to 14, 1984.

Experts designated by the Governments of the following 18 States, members of the Council of Europe, took part in the work of the Committee: Austria, Belgium, Cyprus, Denmark, Finland, France, Germany (Federal Republic of), Greece, Italy, Luxembourg, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland, Turkey, United Kingdom. WIPO was represented in an observer capacity by Mr. Claude Masouyé, Director, Public Information and Copyright Department. The International Labour Office (ILO), Unesco and the Commission of the European Communities, as well as a number of interested international non-governmental organizations, had also delegated observers.

The discussions were chaired by Mr. Robert Dittrich, Ministerialrat, Federal Ministry of Justice, Vienna (Austria), Chairman of the Committee, and Mr. F.W. Hondius, Deputy to the Director of Human Rights of the Council of Europe, acted as Secretary.

Before discussing the items of substance entered on the agenda, the Committee was given by its secretariat a progress report on the work done on some specific items since the previous session of November 1983.[1] A positive opinion on the advisability of a European Agreement on alien amateur radio operators was transmitted to the Committee of Ministers of the Council of Europe and a recommendation was drawn up on the Principles of Television Advertising.

The Committee subsequently devoted its discussions to consideration of the following matters:

(1) Television by satellite and cable: After having taken cognizance of the report prepared by its working group under the chairmanship of Mr. Henry Olsson (Sweden), the Committee expressed the wish that the group be reconvened in order to update its report, introducing in particular the differing opinions expressed on certain questions during this meeting of the Committee. The revised version will then be submitted to the competent bodies of the Council of Europe. The working group was further asked to prepare a draft recommendation on the possible solutions to the problems involved. Discussion of this item took into account the deliberations of the international meetings convened by WIPO and Unesco and the preparatory documentation for the December 1983 meetings[2]. Finally, the Committee decided that the question of television by satellite and cable would remain on its agenda.

(2) Private copying: The Committee was informed of the conclusions of the Group of Experts on Unauthorized Private Copying of Recordings, Broadcasts and Printed Matter, convened by WIPO and Unesco at Geneva in June 1984,[3] as well as of the possibility of a second meeting in 1985. It was emphasized that the question had a different character in the framework of the Council of Europe than at the worldwide level: since the member States shared a common, or at least very close, legal and political philosophy, a recommendation at the Western European regional level would probably have more chance of rapid adoption. Consequently, the Committee instructed a working group to prepare a draft recommendation on the private copying of sound and audiovisual recordings to be discussed at its next session.

[1] See *Copyright*, 1984, pp. 30 and 31.

[2] *Ibid.*, April 1984 special issue.

[3] *Ibid.*, 1984, pp. 280 *et seq.*

(3) The fight against piracy: Following the Worldwide Forums organized by WIPO in 1981 and 1983, the bodies of the Council of Europe expressed the wish that the Committee prepare a recommendation on the measures to be recommended in order to strengthen the fight against music piracy, 1985 being the European Music Year. However, the Committee felt that its study should cover both music and audiovisual piracy and entrusted a working group to prepare a draft text.

In addition, the Committee was informed of recent developments in the field covered by its terms of reference. Its attention was drawn in particular to the status of ratifications of the Additional Protocol to the European Agreement on the Protection of Television Broadcasts and to the forthcoming expiry (on December 31, 1984) of the deadline, some States having not yet ratified or approved the Protocol. A number of expert members of the Committee provided it with information on the adoption of legislation in the media field or on the preparation of draft laws in their respective countries as regards copyright or neighboring rights.

Finally, the Committee was given explanations on the structure and objectives of a document published in June 1984 by the Commission of the European Communities under the title: "Television Without Frontiers: Green Paper on the Establishment of the Common Market for Broadcasting, Especially by Satellite and Cable." The Committee held a general exchange of views only, without entering into a substantive discussion of the contents of that document, and asked to be kept informed of the results of the consultative meetings to be held by the Commission of the European Communities.

At the close of its deliberations, the Committee decided to reelect, for the 1984–1985 period, the outgoing Bureau composed of: Chairman, Mr. Robert Dittrich, Ministerialrat, Federal Ministry of Justice, Vienna (Austria); Vice-Chairmen, Mr. Henry Olsson, Director, Ministry of Justice, Stockholm (Sweden) and Mr. André Bourdalé-Dufau, Deputy Director, Legal Affairs and Intellectual Property, Ministry of Culture, Paris (France).

The next meeting of the Committee will be held in Strasbourg from September 10 to 13, 1985.

Calendar of Meetings

WIPO Meetings

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

1984

November 5 to 9 (Geneva) — Committee of Experts on Biotechnological Inventions

November 19 to 23 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Groups on Special Questions and on Planning

November 26 to 30 (Paris) — Group of Experts on Copyright Problems Related to the Rental of Phonograms and Videograms (convened jointly with Unesco)

November 26 to December 7 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on Search Information

December 10 to 14 (Paris) — Gronp of Experts on the Intellectual Property Aspects of the Protection of Folklore at the International Level (convened jointly with Unesco)

December 17 (Geneva) — Informal Meeting with International Non-Governmental Organizations Essentially Concerned with Industrial Property or Copyright and Neighboring Rights

1985

Jannary 21 to 25 (Geneva) — International Patent Classification (IPC) Union: Committee of Experts

February 4 to 8 (Geneva) — Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights

February 25 to March 1 (Geneva) — Group of Experts on Copyright Protection of Computer Software (convened jointly with Unesco)

March 11 to 15 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on General Information

March 18 to 22 (Paris) — Group of Experts on Copyright Problems in the Field of Direct Broadcasting Satellites (convened jointly with Unesco)

April 22 to 26 (Paris) — Joint Unesco–WIPO Consultative Committee on the Access by Developing Countries to Works Protected by Copyright (convened jointly with Unesco)

May 6 to 17 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on Search Information

June 6 to 14 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Groups on Planning and on Special Questions

June 17 to 25 (Paris) — Berne Union: Executive Committee (Extraordinary Session) (sitting together, for the discussion of certain items, with the Intergovernmental Committee of the Universal Copyright Convention)

June 26 to 28 (Paris) — Rome Convention: Intergovernmental Committee (Ordinary Session) (convened jointly with ILO and Unesco)

September 11 to 13 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on Patent Information for Developing Countries

September 16 to 20 (Geneva) — Permanent Committee on Patent Information (PCPI)

September 23 to October 1 (Geneva) — Governing Bodies (WIPO General Assembly, Conference and Coordination Committee; Assemblies of the Paris, Madrid, Hague, Nice, Lisbon, Locarno, IPC, PCT, Budapest, TRT and Berne Unions; Conferences of Representatives of the Paris, Hague, Nice and Berne Unions; Executive Committees of the Paris and Berne Unions; Committee of Directors of the Madrid Union; Council of the Lisbon Union)

October 7 to 11 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on General Information

November 18 to 22 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Groups on Special Questions and on Planning

November 25 to December 6 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on Search Information

UPOV Meetings

1984

November 6 and 7 (Geneva) — Technical Committee

November 8 and 9 (Geneva) — Administrative and Legal Committee

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

Non–Governmental Organizations

1984

International Confederation of Societies of Authors and Composers (CISAC)
Congress — November 12 to 17 (Tokyo)

1985

European Broadcasting Union (EBU)
Legal Committee — April 24 to 26 (Geneva)

International Association for the Advancement of Teaching and Research in Intellectual Property (ATRIP)
Annual Meeting — September 16 to 18 (Geneva)

International Copyright Society (INTERGU)
Congress — June 7 to 12 (Munich)

International Literary and Artistic Association (ALAI)
Executive Committee — January 12 (Paris)
Study Session — April 10 to 12 (Oxford)

International Union of Architects (IUA)
Congress — January 20 to 26 (Cairo)