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

Copyright

21st year — No. 3
March 1985

Monthly Review of the
World Intellectual Property Organization (WIPO)

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ISSN 0010-8626

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World Intellectual Property Organization

The World Intellectual Property Organization in 1984*

WIPO and Development Cooperation Activities in the Fields of Copyright and Neighboring Rights

I. Intellectual Property Activities: Promotion of the Worldwide Recognition of and Respect for Intellectual Property; Contacts with States and International Organizations

Objectives

The general objective is to promote the realization of the benefits of intellectual property — both industrial property and copyright — for the cultural and economic progress of any country. As a natural avenue leading to such benefits, the objective is also to promote accession to the treaties administered by WIPO by countries not yet party to them.

The objective is also to ensure that, through regular contacts between WIPO on the one hand and the governments of States and international organizations on the other, there should be full awareness of what is being done and planned on either side in order mutually to inspire more and more useful activities, to combine forces whenever possible and to avoid unnecessary duplication.

Activities

During 1984, the International Bureau continued to promote acceptance by States of the WIPO Convention and of the other treaties administered by WIPO. In addition to the activities referred to below in relation to specific treaties, discussions on such acceptance took place during WIPO missions to States, particularly missions for the purposes of development cooperation, in meetings with permanent missions of States in Geneva and in contacts with delegations of States at intergovernmental meetings. Notes concerning the advantages of acceptance of particular treaties for particular countries were prepared and sent to the competent authorities of the countries concerned.

Convention Establishing the World Intellectual Property Organization. In 1984, the following countries deposited their instruments of accession to the WIPO Convention: New Zealand in March, Cyprus in July and Venezuela in August, bringing the number of members of WIPO to 109. They are the following: Algeria, Argentina, Australia, Austria, Bahamas, Barbados, Belgium, Benin, Brazil, Bulgaria, Burkina Faso, Burundi, Byelorussian SSR, Cameroon, Canada, Central African Republic, Chad, Chile, China, Colombia, Congo, Costa Rica, Cuba, Cyprus, Czechoslovakia, Democratic People's Republic of Korea, Denmark, Egypt, El Salvador, Fiji, Finland, France, Gabon, Gambia, German Democratic Republic, Germany (Federal Republic of), Ghana, Greece, Guatemala, Guinea, Haiti, Holy See, Honduras, Hungary, India, Indonesia, Iraq, Ireland, Israel, Italy, Ivory Coast, Jamaica, Japan, Jordan, Kenya, Libya, Liechtenstein, Luxembourg, Malawi, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Morocco, Netherlands, New Zealand, Niger, Norway, Pakistan, Panama, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Romania, Rwanda, Saudi Arabia, Senegal, Somalia, South Africa, Soviet Union, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, United Republic of Tanzania, Togo, Tunisia, Turkey, Uganda, Ukrainian SSR, United Arab Emirates, United Kingdom, United States of America, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia, Zimbabwe. Of these, 17

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* This article is the first part of a report on the main activities of WIPO in general and in the fields of copyright and neighboring rights. Activities in the field of industrial property are covered in a corresponding article in the review *Industrial Property*.

The first part deals with the activities of WIPO as such and with development cooperation activities in the field of copyright and neighboring rights. The second part will deal with other activities in those fields.

In general, the report follows the order in which activities are set out in the program for the 1984 and 1985 biennium, approved by the Governing Bodies of WIPO and the Unions administered by WIPO in 1983. It recalls, from the said program, the objectives of the activities described.

States are members of WIPO but are not members of the Paris or Berne Unions (Byelorussian SSR, China, Colombia, El Salvador, Gambia, Guatemala, Honduras, Jamaica, Mongolia, Panama, Peru, Qatar, Saudi Arabia, Somalia, Ukrainian SSR, United Arab Emirates, Yemen).

In addition, 15 States that have not yet become members of WIPO are party to one or more of the treaties administered by WIPO. They are the following: Dominican Republic, Ecuador, Equatorial Guinea, Ethiopia, Iceland, Iran (Islamic Republic of), Lebanon, Madagascar, Nicaragua, Nigeria, Paraguay, San Marino, Syria, Thailand, Trinidad and Tobago.

Therefore, the total number of States that are members of WIPO, of one or more of the Unions administered by WIPO, or of both WIPO and one or more of such Unions is 124.

Treaties Providing for the Substantive Protection of Intellectual Property

Paris Convention for the Protection of Industrial Property. Instruments of accession to the Paris Convention were deposited by Sudan in January 1984 and by Barbados and China in December 1984. On the entry into force of the accession of China in March 1985, the number of States members of the Paris Union will be 96. New Zealand and Iceland, already members of the Paris Union, deposited their instruments of accession to the Stockholm (1967) Act of the Paris Convention in March and September 1984, respectively, with the exception of Articles 1 to 12.

Berne Convention for the Protection of Literary and Artistic Works. In February 1984, India deposited a declaration extending the effects of its ratification, in 1975, of the Paris Act (1971) of the Berne Convention to Articles 1 to 21 and the Appendix of the said Act, subject to declarations concerning Articles 14bis and 15(4)*(a)* of the Convention and Articles II and III of the Appendix. In September 1984, Iceland, already a member of the Berne Union, deposited its instrument of accession to the Paris Act with the exception of Articles 1 to 21.

In June 1984, India and Mexico deposited notifications renewing declarations concerning Articles II and III of the Appendix to the Paris Act (1971).

Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations. The Philippines acceded to the Rome Convention in June 1984, bringing the number of member States to 27.

Geneva Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms. Czechoslovakia acceded to the Phonograms Convention in October 1984, bringing the number of member States to 38.

Brussels Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite. The United States of America acceded to the Satellites Convention in December 1984, bringing the number of member States to nine.

Nairobi Treaty on the Protection of the Olympic Symbol. In 1984, instruments of ratification or accession in respect of the Nairobi Treaty were deposited by Sri Lanka in January, by Jamaica in February, by Syria and Uruguay in March, by Bulgaria in April, by Algeria, Brazil and Senegal in July and by El Salvador and Cuba in September, bringing the number of States party to the Nairobi Treaty to 23.

Treaties Providing for Simplified Possibilities for the International Protection of Inventions, Marks and Industrial Designs

Patent Cooperation Treaty (PCT). Instruments of ratification or accession in respect of the PCT were deposited by Sudan in January, by Bulgaria in February, by the Republic of Korea in May (with a declaration to the effect that the country shall not be bound by Chapter II of the PCT), by Mali in July and by Barbados and Italy in December 1984. With the entry into force, in March 1985, of the accession by Italy, the number of PCT Contracting States will be 39.

Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure. Austria deposited its instrument of ratification of the Budapest Treaty in January 1984. When, in April 1984, its accession entered into force, the number of States party to the Budapest Treaty was 15.

Communications were received from Japan and the European Patent Office (EPO) in March 1984 stating changes as concerns the fees to be charged, respectively, by the Fermentation Research Institute and the Centraalbureau voor Schimmelcultures as international depositary authorities. The said communications were published in the March 1984 issue of *Industrial Property*. In June and July 1984, communications were received from France and the United Kingdom, respectively, concerning the acquisition of the status of International Depositary Authority by institutions in the said member States. At the end of 1984, the number of International

Depositary Authorities was 13, in six member States.

Madrid Agreement Concerning the International Registration of Marks. Sudan deposited its instrument of accession to the Madrid Agreement in January 1984, bringing the number of States members of the Madrid Union to 26.

Hague Agreement Concerning the International Deposit of Industrial Designs. Hungary and Senegal deposited instruments of accession to the Hague Agreement in March and May 1984, respectively. The 1960 Act of the Hague Agreement entered into force in August 1984, the number of States members of the Hague Union being 19. The Protocol of Geneva (1975) ceased to have effect on August 1, 1984.

Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks. The Geneva Act (1977) of the Nice Agreement was ratified by Belgium in August and acceded to by Barbados in December 1984.

Treaty in the Field of Double Taxation

Madrid Multilateral Convention for the Avoidance of Double Taxation of Copyright Royalties. The Italian text of the Madrid Multilateral Convention was published by WIPO and the United Nations Educational, Scientific and Cultural Organization (UNESCO) in February 1984.

Acceptance of Treaty Amendments

In 1979, the WIPO Conference and the Assemblies of the Paris, PCT, Madrid, Hague, Lisbon, IPC, Nice, Locarno and Berne Unions, and, in 1980, the Assemblies of the TRT and Budapest Unions decided to change from the then existing system of triennial and annual programs and budgets to a system of biennial programs and budgets. Those decisions took the form of amendments to the corresponding — 12 — treaties. As the required number of acceptances of those amendments had been received for all of the said treaties, at the end of 1984, the amendments had entered into and were in force for WIPO and all the 11 Unions.

Preparations for Commemorating the Centenary of the Berne Convention

In January and May 1984, the Director of the Swiss Federal Office of Intellectual Property visited WIPO and discussed with the Director General arrangements for commemorating the centenary of the signature, in the capital of Switzerland, of the Berne Convention for the Protection of Literary and Artistic Works on September 9, 1886. The discussions took into account the approved program of WIPO and the Unions administered by WIPO for 1984 and 1985, which includes the following item: "DMS.02(2) *Preparation for Commemorating the Centenary of the Berne Convention.* It is in 1986 that the Berne Convention will be 100 years old. On that occasion, celebrations will be held in Berne (if the Swiss Government so desires) and at the Headquarters of WIPO. The Assembly of the Berne Union (and possibly also the Conference of WIPO) may wish, on that occasion, to reaffirm — in the form of solemn declarations — the basic principles of the law of copyright and the importance of that law on the national and international levels. In order to prepare the text of such a declaration, the International Bureau will convene in 1984 a Group of Consultants and in 1985 a Committee of Governmental Experts."

Following the said discussions, the Director General received an invitation from the Swiss Federal Council to hold a celebration of the centenary of the Berne Convention on September 11, 1986, in the afternoon, in Berne. Arrangements could be made, including arrangements for simultaneous interpretation, for the Assembly of the Berne Union to hold, in Berne during the same afternoon, a session for the adoption of a solemn declaration reaffirming the basic principles of the law of copyright. In the evening, the Swiss authorities would invite the participants in the celebration to a banquet; those participants would include not only delegates and observers in the sessions of the WIPO Governing Bodies but also members of the International Literary and Artistic Association (ALAI) attending a Congress of ALAI planned to be held in Berne during the same week. The Swiss Federal Office of Intellectual Property would cooperate with WIPO in organizing transport between Geneva and Berne. The Governing Bodies of WIPO and the Unions administered by WIPO, at their sessions in September 1984, accepted the said invitation.

II. Copyright and Neighboring Rights Activities of Particular Interest to Developing Countries

Objective

The objective is to assist developing countries in the establishment or modernization of their copyright systems in the following four ways:

(i) training specialists,
(ii) creating or modernizing domestic legislation and infrastructure for the administration of such legislation,
(iii) stimulating domestic creative activity,
(iv) facilitating access to foreign works protected by copyright owned by foreigners.

Activities

Development of General Awareness and Knowledge of the Law and the Practical Implications of Copyright and Neighboring Rights (Training)

In 1984, WIPO received 123 applications for *training in the fields of copyright and neighboring rights* from 53 developing countries, from the United Nations Educational and Training Programme for Southern Africa (UNETPSA), the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA) and from the Economic Community of the Countries of the "Grands Lacs" (CEPGL). Fifty-six of these applications, from the following 36 developing countries, from UNETPSA and from UNRWA, were accepted and led to the completion of training courses: Algeria, Angola, Argentina, Benin, Brazil, Burkina Faso, Central African Republic, Chile, China, Costa Rica, Cuba, Egypt, El Salvador, Fiji, Guinea, Honduras, India, Indonesia, Ivory Coast, Malawi, Malaysia, Mali, Mauritius, Mexico, Panama, Papua New Guinea, Peru, Philippines, Senegal, Solomon Islands, Somalia, Sudan, Thailand, Tonga, Trinidad and Tobago, Uganda.

The training arranged in 1984 took the following forms (listed in chronological order):

(a) for 12 trainees, a Sub-Regional Course (in English) on Copyright and Neighboring Rights in *Manila* in February 1984, organized by WIPO in cooperation with the National Library of the Philippines and following a recommendation of the WIPO Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights at its fifth session in New Delhi in January 1983; in addition to a number of participants from the Philippines, the other participants came from ASEAN and Oceanic countries, namely: Fiji, Indonesia, Malaysia, Papua New Guinea, Solomon Islands, Thailand, Tonga; lectures were given by officials from Australia, Fiji, Sweden and WIPO, and by representatives of private organizations coming from Hong Kong, India, Japan, the Philippines and Switzerland. A compendium of papers presented at the Course, and information on the status of copyright law and its implementation in their countries as indicated by participants, was prepared by WIPO and circulated to all participants and to their governments in September 1984;

(b) for 12 trainees, a Specialized Training Course (in Spanish) on Copyright and Neighboring Rights, in *Montevideo* in May 1984, organized by WIPO in cooperation with the Swiss Society of Authors' Rights in Musical Works (SUISA), the Government of Uruguay (Ministry of Education and Culture and the Council of Copyright) and the Latin American Association for Integration (ALADI); in addition to a number of participants from Uruguay, the other participants came from Argentina, Brazil, Chile, Costa Rica, El Salvador, Honduras, Mexico, Panama and Peru; the lecturers came from Argentina, Brazil, Chile, Switzerland, Uruguay and WIPO;

(c) for 10 trainees, a Specialized Training Course (in French) on the Administration of Copyright and Neighboring Rights, in *Zurich* in May and June 1984, organized by WIPO in cooperation with the Swiss Society for Authors' Rights in Musical Works (SUISA); the participants came from Algeria, Benin, Burkina Faso, Central African Republic, China, Cuba, Guinea, Ivory Coast, Mali and Senegal; lectures were given by officials of SUISA and WIPO; the course was closed by the Director General of SUISA and the Director General of WIPO; this course was followed by a visit to WIPO Headquarters;

(d) for 18 trainees, a General Introductory Course (in English) on Copyright and Neighboring Rights, in *London* in October 1984, organized by WIPO in cooperation with the Government of the United Kingdom and the British Copyright Council (BCC); the participants came from Brazil, China, Egypt, Honduras, India, Malawi, Mauritius, Mexico, Philippines, Somalia, Sudan, Thailand, Trinidad and Tobago, Uganda, UNETPSA and UNRWA; lectures were given by officials from the United Kingdom Copyright Department, from the BCC and from several organizations of authors, performers, publishers, producers of phonograms and videograms and authors' agents, as well as by specialists from the London University, from the British Broadcasting Corporation and from Nigeria, Sweden and Trinidad and Tobago, and by WIPO officials; this course was followed, for most of those concerned, by practical training in copyright and neighboring rights in the following countries and at WIPO: Germany (Federal Republic of), Hungary, India, Switzerland and United Kingdom;

(e) for four trainees from Angola, Benin, Cuba and Guinea, practical individual training courses in copyright and neighboring rights in one of the following countries: *Brazil*, *Italy* and *Mexico*.

In most cases, the arrangements for training in 1984 included visits to WIPO Headquarters.

Taking together the training program in the field of industrial property and that in the fields of copyright and neighboring rights, the total number of applications received in 1984 was 609 from 106 developing countries, from the United Nations Economic Commission for Africa (UNECA), from the United Nations Educational and Training Programme for Southern Africa (UNETPSA), from the United Nations Relief and Works Agency for Palestine Refugees in the Near East (UNRWA), from the African Intellectual Property Organization (OAPI), from the African Regional Centre for Technology (ARCT), from the Economic Community of the Countries of the "Grands Lacs" (CEPGL), from the Industrial Property Organization for English-Speaking Africa (ESARIPO), from the Federation of Arab Scientific Research Councils (FASRC) and from the Gulf Cooperation Council (GCC), as compared with 550 applications in 1983 from 92 developing countries, from the United Nations High Commissioner for Refugees (UNHCR), from UNRWA, from OAPI, from ARCT, from the Arab Industrial Development Organization (AIDO), from FASRC and the Pan Africanist Congress of Azania (PAC). A total of 216 applications were accepted from 76 developing countries, UNETPSA, UNRWA, ARCT, CEPGL, ESARIPO, FASRC, GCC, OAPI; two applications were accepted also from Bulgaria and Greece; in the full year 1983, 210 applications were accepted (and led to the completion of training courses) from 75 developing countries, UNHCR, UNRWA, OAPI, FASRC and PAC. In 1984, 45 applications were accepted (21% of the total acceptances) from 21 countries regarded as least developed among the developing countries, and 68 of the successful candidates were women (31% of the total acceptances). In 1984, seven developing countries (Brazil, Egypt, India, Kenya, Mexico, Philippines, Uruguay) and OAPI have contributed to promoting cooperation among developing countries by receiving 66 trainees.

The following 12 countries and six national organizations contributed in full or in part to the payment of the travel expenses and subsistence allowances, or otherwise, for trainees in the fields of copyright and neighboring rights: Algeria, Australia, Austria, Belgium, German Democratic Republic, Hungary, India, Italy, Mexico, Philippines, United Kingdom, Uruguay, the Australasian Performing Right Association (APRA) (Australia), the Australian Record Industry Association (ARIA) the British Copyright Council (BCC), the Musical Performing and Mechanical Reproduction Rights Society (GEMA) (Federal Republic of Germany), the International Federation of Phonogram and Videogram Producers (IFPI) (United Kingdom) and the Swiss Society of Authors' Rights in Musical Works (SUISA) (Switzerland).

The remainder of the cost was borne by the budget of WIPO.

Development of the Legislative Infrastructure in Developing Countries in the Fields of Copyright and Neighboring Rights

WIPO continued to cooperate, on request, with governments or groups of governments of developing countries on the adoption of new laws and regulations, or the modernization of existing ones, in the fields of copyright and neighboring rights.

In 1984, such cooperation was pursued with the following countries:

Central African Republic. A new copyright law, prepared with the advice and assistance of WIPO, was enacted in September 1984.

Congo. In response to a request from the government authorities for assistance in setting up an appropriate copyright administration, WIPO made available in March 1984 an expert to evaluate the needs; as a result of the expert mission, draft rules for the implementation of the copyright law and draft statutes for an authors' society were drawn up.

El Salvador. At the request of the Government, comments were furnished by WIPO in August 1984 on a preliminary draft of new copyright legislation.

Ghana. Comments on a draft copyright law, requested by the government authorities in February 1984, were furnished by WIPO in March 1984.

Lesotho. In April 1984, a WIPO consultant from the Federal Republic of Germany gave lectures on intellectual property to students of the Law Faculty of the National University of Lesotho, and gave advice on the development of an intellectual property law curriculum; the consultant's mission was financed by the Federal Republic of Germany.

In June 1984, WIPO prepared and sent, at the request of the Law Office of the Government of Lesotho, draft texts on industrial designs and copyright.

Following a mission to Maseru by a WIPO official in January 1984, a workshop on intellectual property, organized jointly by WIPO and the Government of Lesotho through the National University of Lesotho, was held in Maseru in August 1984.

Solomon Islands. At the request of the Government, WIPO prepared and sent in April 1984 the draft of a copyright law.

Tonga. At the request of the Government, WIPO prepared and sent in April 1984 the draft of a copyright law.

Arab States Broadcasting Union (ASBU). See under "Cooperation with States and International Organizations," in the second part of this report, to be published in the April issue.

Joint International Unesco–WIPO Service for Facilitating the Access by Developing Countries to Works Protected by Copyright

Within the framework of the activities of the Joint International Unesco–WIPO Service for Facilitating the Access by Developing Countries to Works Protected by Copyright, a *Working Group on Model Contracts Concerning Co-Publishing and Commissioned Works*, convened by WIPO and Unesco, held its second session in Paris in April 1984.

The Working Group consisted of experts from Mexico, Senegal, the Soviet Union, Switzerland and the United States of America. The Chairman of the Joint Unesco–WIPO Consultative Committee participated in his official capacity. Representatives of three international non-governmental organizations also attended as observers.

The meeting examined the revised texts of annotated model contracts concerning the co-production of copies of a work by a publisher holding rights in the work and a publisher in a developing country, relations between an author and a publisher in respect of publication of a commissioned work, and relations between a translator and a publisher in respect of the publication of a commissioned translation. (The said texts had been revised in the light of the conclusions reached at the first session of the Working Group and of the advice given by the Joint Consultative Committee at its session in July 1983.)

The experts concurred with the proposed structure of the model contracts, and focused their attention on certain details of their articles and the comments thereon. The report of the meeting, containing the agreed comments of the Working Group on the three annotated model contracts, will be submitted to the next session of the Joint Consultative Committee in 1985.

Expressions of Folklore

A *Regional Committee of Experts on Means of Implementation in the Arab States of Model Provisions on Intellectual Property Aspects of Protection of Expressions of Folklore*, convened by WIPO and Unesco, met in Doha, at the invitation of the Government of Qatar, through the Arab Gulf States Folklore Centre, in October 1984.

The purpose of the meeting was to consider the text of the Model Provisions for National Laws on the Protection of Expressions of Folklore Against Illicit Exploitation and Other Prejudicial Actions, adopted by the Committee of Governmental Experts convened by WIPO and Unesco in Geneva in June and July 1982, and to make suggestions on the means of implementation of the said text in the Arab States.

Experts from seven Arab countries (Algeria, Egypt, Jordan, Kuwait, Lebanon, Qatar, Saudi Arabia) participated in the meeting. Two intergovernmental organizations, the Arab League Educational, Cultural and Scientific Organization (ALECSO) and the Arab Bureau of Education for the Gulf States were represented in an observer capacity.

In a general debate, the experts gave a brief account of the status of protection of expressions of folklore in their respective countries, which revealed, in all cases, concern for the safeguarding of the national heritage of folklore, and in certain cases, cultural, legal and administrative measures to achieve this.

The debate was followed by an examination, section by section, of the said Model Provisions and accompanying Commentary, particularly in the context of their implementation in the Arab States.

The experts also recommended that WIPO and Unesco should prepare the draft of an international multilateral treaty on the protection of expressions of folklore and work for its adoption and implementation.

WIPO Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights

The Permanent Committee consists of all States members of WIPO which have informed the Director General of their desire to be members. In 1984, three States (Costa Rica, New Zealand and Saudi Arabia) became members of the Permanent Committee, bringing the membership to 64 States (Australia, Austria, Barbados, Belgium, Benin, Brazil, Bulgaria, Burkina Faso, Cameroon, Canada, Central African Republic, Chile, Congo, Costa Rica, Czechoslovakia, Denmark, Egypt, El Salvador, Fiji, Finland, France, German Democratic Republic, Germany (Federal Republic of), Ghana, Guatemala, Guinea, Honduras, Hungary, India, Israel, Italy, Ivory Coast, Japan, Kenya, Malawi, Mali,

Mauritius, Mexico, Morocco, Netherlands, New Zealand, Niger, Norway, Pakistan, Peru, Philippines, Poland, Portugal, Romania, Saudi Arabia, Senegal, Somalia, Soviet Union, Spain, Sudan, Suriname, Sweden, Switzerland, Togo, Tunisia, Turkey, United Kingdom, United States of America, Yemen).

The Permanent Committee held its sixth session in February 1985 in Geneva. The report of that session is published in this issue, pages 93 to 104.

III. Governing Bodies

The Governing Bodies of WIPO and the Unions administered by WIPO held their fifteenth series of meetings in Geneva from September 24 to 28, 1984. The following six Governing Bodies held sessions:

WIPO Coordination Committee, eighteenth session (15th ordinary);
Paris Union Assembly, ninth session (3rd extraordinary);
Paris Union Conference of Representatives, eleventh session (5th extraordinary);
Paris Union Executive Committee, twentieth session (20th ordinary);
Berne Union Executive Committee, twenty-third session (15th ordinary);
PCT (Patent Cooperation Treaty) Union Assembly, twelfth session (8th extraordinary).

Delegations of 77 States participated in the meetings. Eleven intergovernmental organizations and four international non-governmental organizations were represented by observers. The main items discussed and the principal decisions taken, as well as the list of participants, were published in the November 1984 issue of *Copyright*, pages 398 to 401.

IV. Management and Supporting Activities

Missions. In 1984, the Director General undertook missions to and had conversations with high government officials in Australia, Bulgaria, China, Colombia, France, Italy, New Zealand, Portugal, Saudi Arabia, the Soviet Union, Sri Lanka, Sweden, Thailand, the United Kingdom, Viet Nam and Yugoslavia.

The missions to Bulgaria, Portugal, Viet Nam and Yugoslavia were formal "official visits," the Director General being the guest of the Government and received by the Head of State and/or by several Government Ministers. In Colombia, he also met with the Head of State and several Government Ministers.

In Sweden and the United Kingdom, the Director General participated in the official celebrations of the 100th anniversary of the Swedish patent and trademark system, and of the patent examination system of the United Kingdom, respectively. He delivered an address at each of those celebrations.

Missions were undertaken by Deputy Directors General to Bulgaria, Burundi, Canada, China, Colombia, Czechoslovakia, Germany (Federal Republic of), Finland, Hungary, Italy, Pakistan, Saudi Arabia, the Soviet Union, Turkey, the United Kingdom, Venezuela, Viet Nam, Yugoslavia and Zambia.

In addition to the missions referred to above, the following countries were visited by other officials or by consultants of WIPO: Antigua and Barbuda, Argentina, Australia, Austria, Bahrain, Bangladesh, Barbados, Belgium, Belize, Benin, Brazil, Bulgaria, Canada, Chile, China, Colombia, Congo, Costa Rica, Cuba, Democratic People's Republic of Korea, Ecuador, Egypt, El Salvador, Ethiopia, France, Germany (Federal Republic of), Ghana, Greece, Guatemala, Guinea, Haiti, Honduras, Hungary, India, Indonesia, Iraq, Israel, Italy, Ivory Coast, Jamaica, Japan, Kenya, Lesotho, Malawi, Malaysia, Mexico, Morocco, Netherlands, Nicaragua, Pakistan, Panama, Papua New Guinea, Paraguay, Philippines, Portugal, Qatar, Republic of Korea, Rwanda, Saint Lucia, Saudi Arabia, Senegal, Singapore, Soviet Union, Spain, Sri Lanka, Sudan, Sweden, United Republic of Tanzania, Thailand, Trinidad and Tobago, Turkey, United Kingdom, United States of America, Uruguay, Venezuela, Viet Nam, Zaire, Zimbabwe.

United Nations. The Director General and other officials of WIPO participated in the work of a number of intersecretariat bodies of the United Nations system established for the purpose of facilitating coordination of the policies and activities of the organizations of the system. Those bodies included the Administrative Committee on Coordination (ACC), composed of the executive heads of all the organizations and programs of the system under the chairmanship of the Secretary-General of the United Nations, which met in London in April, in Geneva in July and in New York in October 1984, and which held a joint meeting with the UN Committee on Programme and Coordination (CPC) in Geneva in July 1984, its Organizational Committee and its Consultative Committees on Substantive Questions (Programme) and (Operations) (CCSQ (PROG) and CCSQ (OPS)) and on Administrative Questions (Finance and Budget) and (Personnel) (CCAQ (FB) and CCAQ (PER)). Other subsidiary bodies of the ACC, task forces, working groups and *ad hoc* interagency meetings in which WIPO participated during the period covered by this report were

convened to deal with various matters of common interest, including economic and technical cooperation among developing countries, consultations on the follow-up to the Substantial New Programme of Action for the Least Developed Countries, intersecretariat relations with the Organization of African Unity, Palestine, procurement of supplies, legal questions, information systems and language arrangements, documentation and publications. WIPO was represented at meetings of the Board of the UN Joint Staff Pension Fund in Paris in March and in Vienna in August 1984, and at meetings of the Management Committee of the International Computer Centre (ICC) in Geneva and New York.

WIPO was represented at the session of the UN Economic and Social Council (ECOSOC) held in Geneva in July 1984, and attended a session of the Advisory Committee on Administrative and Budgetary Questions, a subsidiary body of the United Nations General Assembly, in Geneva in May 1984, and a session of the Advisory Committee on Post Adjustment Questions of the International Civil Service Commission, also in Geneva in May 1984.

WIPO was also represented at the celebrations of the International Day for the Elimination of Racial Discrimination, in Geneva in March 1984, and of the International Day of Solidarity with the Palestinian People, in Geneva in November 1984.

WIPO was represented at the Seventh Conference of African Ministers of Industry and the Technical Preparatory Committee of the Whole of the United Nations Economic Commission for Africa (UNECA), held in Addis Ababa in March and May 1984, respectively. A representative of WIPO also attended the fourth meeting of the Conference of Ministers of African Least Developed Countries, which took place in Addis Ababa in May 1984, and a session of the Intergovernmental Committee of the UNECA on Science and Technology for Development in Addis Ababa in November 1984.

WIPO was represented at a meeting of a High-Level Intergovernmental Group on the Review and Appraisal of the Implementation of the International Development Strategy for the Third United Nations Development Decade, convened in Geneva in January and February 1984 by the United Nations Conference on Trade and Development (UNCTAD), at sessions of the UNCTAD Committee on Transfer of Technology in Geneva in February and December 1984, and at sessions of the UNCTAD Trade and Development Board in Geneva in March and April and in September 1984.

The Director General represented WIPO at an interagency meeting convened by the Administrator of UNDP in London in April 1984. WIPO was also represented at a UNDP meeting of development aid coordinators in the Asia and Pacific region in Bangkok in May 1984, at the session of the UNDP Governing Council held in Geneva in June 1984, at a regional meeting of UNDP Resident Representatives in Latin America and the Caribbean in Santo Domingo in November 1984 and at an interagency consultative meeting of the UNDP in New York in December 1984.

WIPO was represented at a seminar organized in Washington in May 1984 by the World Bank, at the request of CCSQ (OPS), on collaboration between the World Bank and the UN agencies on technical cooperation.

In June 1984, WIPO was represented at a meeting in Geneva on the occasion of the 20th anniversary of the "Group of 77."

In response to requests from the Secretariat of the United Nations, WIPO provided information on its activities for inclusion in reports concerning assistance to the Palestinian people, the International Year of Peace, coordination of outer space activities, activities of the United Nations system in the field of science and technology for development, and the establishment of a global network of scientific and technological information.

Joint Inspection Unit (JIU). WIPO made contributions to joint comments by the ACC on JIU reports concerning libraries and publications, and provided the JIU, at its request, with general information concerning evaluation and technical cooperation among developing countries, and detailed information concerning computer systems in Geneva, for the purpose of the preparation of JIU reports. WIPO was represented at a meeting of JIU Focal Points in Geneva in February 1984, and a JIU Informal Inter-Agency Evaluation Meeting in Geneva in March 1984.

Public Information, Publications, etc. Lectures on WIPO and its activities, in general or related to particular topics, were given by WIPO officials, often in conjunction with visits by organized groups to WIPO's Headquarters. Such groups included, in particular, groups of diplomats organized by the United Nations Institute for Training and Research (UNITAR) and groups of university students from various countries.

Interviews were given to newspaper and radio correspondents. WIPO officials participated in the regular press briefings given in the United Nations Office in Geneva. WIPO was represented at the regular meetings in Geneva of the Circle of International Information Officers; its representative continued to serve as Chairman for 1984.

Issues of the *WIPO Newsletter* were published in April, August and November 1984 in Arabic, English, French, Portuguese, Russian and Spanish.

A new edition of the WIPO *General Information* brochure was issued in July 1984, in English.

WIPO Permanent Program for Development Cooperation Related to Copyright and Neighboring Rights

Permanent Committee

Sixth Session

(Geneva, February 4 to 8, 1985)

Report

prepared by the International Bureau and adopted by the Permanent Committee

1. The WIPO Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights (hereinafter referred to as "the Permanent Committee") held its sixth session in Geneva from February 4 to 8, 1985.

2. Forty-five States members of the Permanent Committee were represented at the session: Australia, Benin, Brazil, Burkina Faso, Cameroon, Canada, Chile, Congo, Costa Rica, Czechoslovakia, Egypt, El Salvador, France, German Democratic Republic, Germany (Federal Republic of), Ghana, Guatemala, Guinea, Honduras, Hungary, India, Israel, Italy, Japan, Malawi, Mali, Mexico, Morocco, Niger, Norway, Pakistan, Peru, Philippines, Portugal, Saudi Arabia, Somalia, Soviet Union, Spain, Sudan, Sweden, Togo, Tunisia, Turkey, United Kingdom, United States of America (45).

3. The following 12 States were represented by observers: Afghanistan, Algeria, Argentina, Cape Verde, China, Indonesia, Jamaica, Lesotho, Madagascar, Mozambique, Qatar, Trinidad and Tobago (12).

4. The following organizations were represented by observers:

(i) United Nations Organizations: International Labour Organisation (ILO); United Nations Educational, Scientific and Cultural Organization (UNESCO) (2);

(ii) other intergovernmental organization: Arab League Educational, Cultural and Scientific Organization (ALECSO);

(iii) international non-governmental organizations: European Broadcasting Union (EBU), International Bureau of Societies Administering the Rights of Mechanical Recording and Reproduction (BIEM), International Confederation of Societies of Authors and Composers (CISAC), International Copyright Society (INTERGU), International Federation of Actors (FIA), International Federation of Associations of Film Distributors (FIAD), International Federation of Musicians (FIM), International Federation of Phonogram and Videogram Producers (IFPI), International Publishers Association (IPA), International Secretariat of Arts, Communications Media and Entertainment Trade Unions (ISETU) (10).

5. The list of participants is annexed to this report.

Opening of the Session

6. The Director General of WIPO, Dr. Arpad Bogsch, opened the session and welcomed the participants. He drew attention to the main objectives of WIPO's Permanent Program for Development Cooperation Related to Copyright and Neighboring Rights, which were to promote, by all means within the competence of the World Intellectual Property Organization, the encouragement in developing countries of intellectual creation in the literary, scientific and artistic domain; the dissemination in developing countries, under fair and reasonable conditions, of intellectual creations in the literary, scientific and artistic domain protected by the rights of authors (copyright) and by the rights of performing artists, producers of phonograms and broadcasting organizations ("neighboring rights"); and the development of legislation and institutions in the field of copyright and neighboring rights in developing countries. He pointed out that such means in particular include, as appropriate, organizing meetings, providing advice, information, assistance and training, carrying out studies, making recommendations, and preparing and publishing model laws and guidelines. He was pleased to announce that six

States (Costa Rica, Guatemala, Honduras, New Zealand, Saudi Arabia, Tunisia) had become members of the Permanent Committee in the period between the preceding session and the present session, bringing the number of member States of the Permanent Committee to 64.

Election of Officers

7. The Permanent Committee unanimously elected the following officers: Mr. Wolibo Doukouré (Guinea), Chairman; Messrs. Geraldo Aversa (Italy) and Mesfer Al Mesfer (Saudi Arabia), Vice-Chairmen; Mr. Shahid Alikhan, Director, Developing Countries Division (Copyright) acted as Secretary.

Adoption of the Agenda

8. The provisional agenda contained in document CP/DA/VI/1 was adopted by the Permanent Committee.

WIPO's Development Cooperation Program in 1983 and 1984: Review, Evaluation and Planning

General Discussion

9. In the course of their general remarks, most delegations noted with satisfaction the expansion of development cooperation activities carried out under the Permanent Program since the last session of the Permanent Committee in January 1983, stressed the importance they attached to these activities and congratulated the International Bureau of WIPO on its activities in this regard.

10. Some delegations expressed considerable satisfaction that the Governing Bodies of WIPO had been responsive, at their September 1983 sessions, to the need to increase the resources devoted to the Organization's development cooperation activities in order to reduce the gap between the requests for such activities and the resources available with the International Bureau to satisfy them. These delegations saw that decision as an example of multilateral cooperation that was a feature of the Permanent Program.

11. These delegations hoped that WIPO would continue this increased trend for programs of development cooperation in the field of copyright and neighboring rights during the next biennium 1986-1987; they suggested that the Permanent Committee recommend this to the Assembly of WIPO at the next meeting of the Governing Bodies due at the end of September 1985.

12. These delegations emphasized that development cooperation activities in the field of copyright and neighboring rights should not be viewed as a one-way flow of assistance from a group of industrialized countries to a group of developing countries but rather as an exchange where both parties are active participants (as indeed they have been) and that development cooperation in this field ultimately benefited the whole international community.

13. Some delegations stressed that the objective of improving the copyright system in developing countries should not solely be to establish effective legal and administrative infrastructures but, beyond that, to establish a system that would effectively contribute to the social, cultural and economic development strategies of the countries concerned as defined by themselves, and/or included in their national plans for economic development.

14. A number of delegations also highlighted the need to take into account and recognize the special needs of the least developed among developing countries for cooperation in the field of copyright and neighboring rights, and invited the International Bureau to give particular attention to those countries in initiating programs adapted to their specific needs.

15. The observer from China, attending the Permanent Committee as an observer for the first time, expressed his appreciation of WIPO's Permanent Program for Development Cooperation in the field of copyright and neighboring rights, particularly in the fields of training, drafting or updating of national legislation, creation of institutions and provision of information. He recalled that since 1981 his country had participated in WIPO's training programs and benefited from its useful publications; that WIPO had assisted in holding the first training program in copyright in China in 1982, and in November 1985 would be organizing another similar program. The observer from China also indicated the status of copyright in his country; after founding of the People's Republic of China, the Ministry of Culture had promulgated rules to protect authors' and performers' interests. Although a copyright law did not exist yet, its drafting was in progress by the Copyright Study Group of the Publishers Association of China in cooperation with other organizations concerned; this Group has studied the copyright laws of certain industrialized, socialist and developing countries, as well as the main international conventions on copyright and neighboring rights.

The said Group has also studied the legal history, documents and regulations promulgated in its country; surveyed the present status of the creation, dissemination and exploitation of works in the country; sent its officials for practical study abroad; endeavored to train its professional staff and to spread consciousness of copyright in China. The Study Group had further organized training courses with the assistance of WIPO and Unesco and invited government officials and consultants from Algeria, France, Hungary, India, Italy, Japan, Romania, the Soviet Union, Sweden, the United Kingdom and the United States of America for lectures; several training courses had been organized since November 1984, and up to now a total of 1,200 persons had received training; courses on intellectual property law had commenced at the University of Beijing, two other universities and in establishments of higher education; much had, however, yet to be done as far as drafting of a law and the establishment of the necessary infrastructure for implementation of the law was concerned. Studies were under way concerning protection of folklore, of computer programs, etc; an appropriate copyright law would be drafted as soon as possible and a copyright system would be adopted in line with the policy of opening up to the outside world; accession thereafter to the international conventions on copyright and participation as a member State in the WIPO Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights was being actively considered; that was likely in the not too distant future.

Development of Human Resources: Fellowship Program and Training

16. Discussions were based on document CP/DA/VI/2.

17. Delegations of 24 countries, one intergovernmental organization and two international non-governmental organizations made statements under this agenda item.

18. Several delegations expressed considerable appreciation of WIPO's activities in the training of developing country personnel in the field of copyright and neighboring rights and were of the view that this program be continued, strengthened and expanded to narrow the gap between needs and the resources to meet them.

19. A number of delegations and observers, in particular those that had received trainees during 1983 and 1984, were pleased with the quality and compatibility of participants selected by the International Bureau for the different courses; they felt that this qualitative improvement in selection had led to participants being more receptive and responsive as well as to an increasing two-way communication among themselves.

20. The Permanent Committee noted in particular that general introductory training courses had been organized in collaboration with the Government of the Federal Republic of Germany and the Carl Duisberg Gesellschaft (CDG) in Munich in 1983; with the Government of France and the French Society of Authors, Composers and Music Publishers (SACEM) in Paris in 1983; with the Government of the United Kingdom and the British Copyright Council (BCC) with support from the International Federation of Phonogram and Videogram Producers (IFPI) in London in 1984; and were proposed to be organized in cooperation with the Government of Hungary and the Hungarian Bureau for the Protection of Authors' Rights (ARTISJUS) in Budapest in 1985, and possibly also with the Government of France and SACEM in Paris in 1985.

21. The Permanent Committee also noted that specialized courses had been held in collaboration with the Swiss Society of Authors' Rights in Musical Works (SUISA) in Zurich in 1983 and 1984; with the Governments of Ecuador and Uruguay in addition to SUISA, respectively, in 1983 and 1984; and that such specialized courses were proposed to be held in 1985 in Zurich in cooperation with SUISA; in Rio de Janeiro with the Government of Brazil and SUISA; in Stockholm in cooperation with the Government of Sweden and the Swedish International Development Authority (SIDA).

22. The Permanent Committee was gratified to note that, upon a suggestion made at its last session, WIPO had organized a sub-regional course on copyright and neighboring rights for countries of ASEAN and Oceania in Manila in 1984, in cooperation with the Government of the Philippines and the National Library of the Philippines, with support from the Government of Australia as well as from interested private circles in the latter country viz. the Australasian Performing Right Association (APRA) and the Australian Record Industry Association (ARIA).

23. The Permanent Committee particularly noted with satisfaction that WIPO was organizing at the request of the Publishing Administration, Ministry of Culture of the People's Republic of China, a national course in China in 1985.

24. The Permanent Committee thanked the countries and organizations that had during 1983 and 1984 received WIPO trainees in the field of copyright and neighboring rights.

25. Delegations of several developed and developing countries and international non-governmental organizations offered to continue their cooperation in the field of training, and certain other delegations hoped to marshal resources to enable them also to contribute to WIPO's training program which they felt was of vital importance to disseminating knowledge of, and respect for, the copyright system. The Permanent Committee expressed considerable appreciation for these offers.

26. A number of delegations made certain specific suggestions for further consolidating, improving and strengthening the training programs.

27. The delegations of Brazil, Mali, Morocco, and the observer from Argentina pointed to the need to adapt the program to the requirements of developing countries. One way of doing so would be to increase opportunities for training developing country personnel in other developing countries.

28. The delegations of India and Sweden and the observers from ALECSO and CISAC suggested expanding training activities at the regional and/or sub-regional levels.

29. The delegations of Brazil, Egypt and India stressed the importance of medium-term planning in order to assist in both mobilization of resources and provision of a graduating, step-by-step, training of personnel from developing countries, culminating in specialized courses.

30. The delegations of India and the United Kingdom and the observers from Argentina and from CISAC suggested that the program of training of specialists and the grant of fellowships should include training of personnel from other than the concerned government officials, such as those from authors organizations or publishing houses, and that this should enable governments to recommend specialists from such organizations; the observer from CISAC further suggested consideration of training of personnel from the relevant law enforcement agencies. The delegation of India also suggested that some centers in each geographical region might be identified where facilities and expertise might be available for imparting training; these centers might, in time, be developed as Regional Training Centers for Copyright.

31. The delegation of the United States of America suggested that WIPO should continue this useful program in the next biennium along the same lines, planning as many training programs or activities that funding permitted, with some preference given to participants of countries which might currently be developing modern copyright laws and administrative procedures for the first time.

32. The importance of evaluating WIPO's training activities in the field of copyright and neighboring rights by monitoring the use made by persons granted the fellowships, in their future careers, so as to assess the extent to which the specialist training received was actually being applied to copyright or copyright related activities in the nominating country, was raised by the delegations of Morocco and the United Kingdom and by the observer from CISAC. In this connection, the delegation of Morocco suggested that the countries concerned might establish an intellectual solidarity fund for mutual assistance in this field.

33. The delegation of Sweden expressed its satisfaction at the diversification of activities in the field of training and in achieving the objective of creating an awareness and an understanding of the role of copyright and neighboring rights in economic and social development. It stressed that in the development cooperation activities, copyright and neighboring rights should be dealt with together. Further, since in certain countries the whole intellectual property law (industrial property law and copyright and neighboring rights) was dealt with or administered jointly, WIPO's activities in organizing a Workshop on Intellectual Property Law, including both aspects, was a step in the right direction.

34. The delegations of Hungary, India and Sweden specifically offered to continue accepting WIPO trainees during the next biennium; the delegation of the German Democratic Republic made the same offer for 1985; the delegation of Hungary further offered to regularly host, in its country, a General Introductory Training Course on Copyright and Neighboring Rights once every three years; the delegation of France also offered to host such a Course in Paris in 1985. The observers from CISAC and IFPI expressed their willingness to continue to cooperate with WIPO in these training activities.

35. The observer from Lesotho thanked WIPO for the training facilities extended to the concerned offficials in its country; it wished such assistance to continue since with the positive efforts of WIPO, his country was in the process of enactment of a new law on copyright and trained personnel were essential.

36. The observer from Afghanistan congratulated WIPO for the manner in which the activities for

development cooperation in the field of copyright and neighboring rights were being adapted to suit the needs of developing countries. It expressed its interest in using WIPO's training programs for training of his officials.

37. The observer from ALECSO emphasized the vital role of training of officials in developing countries; he expressed his appreciation of the increasing cooperation between ALECSO and WIPO, especially since the conclusion of an agreement between the two organizations and assured ALECSO's full support to a joint effort in the field of training of personnel in Arab countries and joint programs in the Arab region.

38. The International Bureau of WIPO expressed its thanks to the delegations and observers who had extended training facilities and had announced the hosting of training courses and the accepting of WIPO trainees during 1985 and the ensuing biennium, and stated that all the suggestions made during the discussions would be duly taken into account in planning future training programs.

39. The Permanent Committee noted with satisfaction and approved the activities of the International Bureau as indicated in document CP/DA/VI/2 and also took note of the statement of the International Bureau.

National Legislative and Administrative Infrastructures: Advice and Assistance to States in Legislation, Institutions and Related Matters

40. Discussions were based on document CP/DA/VI/3.

41. Delegations of 25 countries and two international non-governmental organizations made statements on this agenda item.

42. A number of delegations expressed considerable satisfaction at the extensive work being done by the International Bureau in providing advice and assistance to developing countries in the preparation or amending and updating of legislation in the field of copyright and neighboring rights, as well as in the setting up or modernization of institutions and national administrative infrastructures.

43. The delegations of France, Hungary, Italy, Sweden and the United Kingdom and the observer from CISAC commended the work done by the International Bureau in providing legal-technical assistance to States; in their view, this was not only important from the standpoint of developing countries, but also for the healthy development of international copyright. While the delegation of the United Kingdom recognized the limitations imposed by budgetary constraints and assured that its commitment to this program will be maintained at least through the next biennium, the other delegations supported larger budgetary allocations for this program. Some of the delegations felt that one way of extrabudgetary assistance would be to obtain the services of expert consultants for the purpose of legal-technical cooperation with developing countries in promulgating laws and setting up of infrastructural facilities. The observers from CISAC and IFPI offered to provide such consultants from their vast pool of experts.

44. The delegation of Ghana asked the major donor countries to consider increase in their funding for this program which was found so useful for the whole international community.

45. The delegations of Brazil, Egypt and India and the observer from Argentina stressed the need of maximizing use of experts from developing countries in these activities.

46. The delegation of Spain informed the Committee of the status of revision of their copyright law; it was interested in helping to consolidate the activities of WIPO in providing advice and assistance in legislation and offered its cooperation for countries that require it.

47. The delegations of Benin, Niger and Togo were particularly appreciative of WIPO's program and efforts for supporting activities in the field of copyright and neighboring rights in the least developed countries. The delegation of Togo informed the Permanent Committee of the process of formulation of its copyright law. The delegation of Niger requested a WIPO mission for assisting in the preparation of the text of its copyright law and in the establishment of necessary copyright infrastructure.

48. The delegations of Saudi Arabia and Trinidad and Tobago appreciated WIPO's assistance in formulation of a draft copyright law which was under consideration by their Governments; the latter delegation further stated the adoption of their new copyright law was being considered in the current session of its Parliament.

49. The delegation of the Soviet Union commended WIPO's activities in the field of legislative assistance to developing countries; it suggested

further strengthening the fund of information available with WIPO so as to be able to provide this to countries needing it.

50. The delegation of Portugal offered its support in providing legislative advice to Portuguese–speaking developing countries; in particular, it was prepared to assist in formulation of copyright legislation in Angola and would consider holding a course in Lisbon for information dissemination to participants from such countries.

51. A number of delegations underlined the usefulness of WIPO's publications; in particular, the delegations of Morocco, Saudi Arabia and Togo emphasized the use they have been able to make of the Guides to various Conventions published by WIPO.

52. The delegation of India suggested that WIPO consider preparation of a Guide to the Convention Relating to the Distribution of Programme–Carrying Signals Transmitted by Satellite. It felt that such a Guide would add to the better understanding and implementation of that Convention.

53. A number of delegations spoke appreciatively of WIPO's initiative in organizing in March 1983 the Worldwide Forum on the Piracy of Broadcasts and of the Printed Word. Some delegations recommended that WIPO consider holding regional meetings to highlight the need to counteract piracy of intellectual works. In this context, the observer from IFPI offered to fund for and cooperate with WIPO in the organization of regional or sub–regional seminars to discuss how antipiracy measures may best be enforced. The delegation of Benin stressed the importance of such seminars and wished to be included if one was organized for the African region. The delegation of India suggested WIPO organize a meeting of judges to discuss and highlight the harmful effects of piracy on creativity and cultural progress and the best means of tackling it.

54. The Director General of WIPO thanked the delegations and observers for the support offered to WIPO's program of assistance for national legislative and administrative infrastructures in developing countries and stated that the suggestions made in the course of the discussions on this item will be fully taken into consideration while drawing up plans for future activities in this connection.

55. The Permanent Committee noted with satisfaction the contents of document CP/DA/VI/3, as well as the statements made by various delegations and by the Director General of WIPO.

Information Meetings and Seminars: Regional and National

56. Discussions were based on document CP/DA/VI/4.

57. Mention was also made of a very useful National Workshop on Intellectual Property organized by WIPO jointly with the Government of Trinidad and Tobago and held in Port of Spain from October 3 to 11, 1983. Six papers on copyright and neighboring rights matters were presented and discussed at this Workshop attended by nearly 200 participants.

58. The Permanent Committee also noted that a Seminar on Copyright and Neighboring Rights for Central American and Caribbean States was being organized by WIPO in cooperation with the Government of Mexico and will be held in Mexico City from February 19 to 22, 1985.

59. Several delegations expressed appreciation of WIPO's efforts in the organization of regional and national seminars and wished this activity to be continued as such seminars were found most useful in dissemination of knowledge in the field of copyright and neighboring rights.

60. The delegations of Benin, Morocco and Sweden and the observers from CISAC and IFPI stressed the importance of regional and sub–regional seminars and wanted these organized on a regular basis. They felt that such meetings could encourage harmonization of legislation on a sub–regional basis and perhaps also help development and utilization of regional or sub–regional infrastructures.

61. The delegations of Benin, Mali, Togo and Tunisia suggested organizing national seminars in their countries.

62. The delegation of Malawi and the observer from China mentioned the national seminar and course being organized respectively in their countries in 1985 with the assistance of and in cooperation with WIPO.

63. The delegation of India stated that, as a member country of the Berne Union and in order to support the efforts of WIPO in celebrating the Centenary of the Berne Convention, its Government would be very glad to host a regional or sub–regional seminar on copyright and neighboring rights in New Delhi on mutually convenient dates in 1986.

64. The delegation of Egypt referring to a regional African Symposium on Copyright which its Gov-

ernment is organizing with the cooperation of WIPO, in the second half of 1985 in Cairo, invited all African countries to participate in that Symposium.

65. The Permanent Committee noted with satisfaction the information contained in document CP/DA/VI/4 as well as the information given and statements made at the meeting.

Cooperation Among Developing Countries

66. Discussions were based on document CP/DA/VI/5.

67. A number of delegations and observers stressed the advantages of regional cooperation of the kind mentioned in the document, leading to possible harmonization of laws, use by groups of smaller countries of regional infrastructures, etc.

68. The delegation of Brazil and the observer from Argentina referred in the context of cooperation among developing countries to trainees they had received from other developing countries.

69. The delegation of Togo, supported by the delegation of Benin, suggested that WIPO might, in this context, establish contacts with the Economic Commission of West African States (ECOWAS).

70. The Permanent Committee noted with satisfaction the activities and projects concerning cooperation among developing countries within the framework of the Permanent Program as indicated in document CP/DA/VI/5, and also took note of the statements made by the various delegations.

Protection of Expressions of Folklore

71. Discussions were based on document CP/DA/VI/6.

72. There was a general recognition of the need to continue efforts aiming at the establishment of international protection of expressions of folklore.

73. The delegation of Hungary and the observer from Argentina stated that the international protection of expressions of folklore was important also from the point of view of industrialized countries wishing to protect expressions of folklore which manifest their own national identity. The delegation of Hungary added that the international protection of expressions of folklore would also strengthen the worldwide system of protecting copyright and neighboring rights since granting protection to developing countries in respect to their traditional values could provide those countries with a source of recompense for their obligations arising from the use of protected works of foreign authorship.

74. The delegation of Congo stated that expressions of folklore were protected by its copyright law and suggested that such protection at national levels should precede that at the international level.

75. The delegation of Morocco stated that under their Copyright Law of 1970 works of authors of unknown identity but presumed to be nationals of Morocco are protected in conformity with the relevant provisions contained in Article 15(4) of the Berne Convention.

76. The delegation of Egypt stated that expressions of folklore could not be protected by means of any existing type of intellectual property protection and suggested that the Conference of WIPO be requested to consider the possibility of holding an international conference on the adoption of an international treaty on protection of expressions of folklore. The delegations of Brazil and India also stressed the importance of continuing the efforts aiming at the establishment of such a treaty.

77. The delegation of Hungary said that the international protection of expressions of folklore was conditional on the elaboration of detailed provisions for identifying the expressions of folklore to be protected, and of a system of solving the problem of the administration of expressions of folklore originating in communities extending over the territory of more than one country; in order to comply with the requirements, regional meetings might precede the formulation and adoption of international protection.

78. The delegation of Mexico reaffirmed the support of its Government to activities aiming at examining copyright type protection for the benefit of the communities concerned.

79. The need for regional meetings on questions relating to the legislation on, and the implementation of, the protection of expressions of folklore was emphasized also by the observers from Argentina and Qatar. The observer from Qatar requested assistance from WIPO in organizing such a meeting for Arab countries.

80. In order to assist the competent authorities of Arab countries in preparing legislation covering the protection of expressions of folklore, the delegation of Egypt and the observer from Qatar suggested that

the Model Provisions for National Legislation, along with the Commentary thereon, and the documents of the 1984 meeting of the Group of Experts on the International Protection of Expressions of Folklore by Intellectual Property, jointly convened by WIPO and Unesco at Paris, be translated into Arabic. Similarly, in order to help Portuguese-speaking countries in establishing the protection of expressions of folklore, first at the national level, the delegation of Portugal said that these documents should be translated into Portuguese.

81. The necessity of establishing the conditions of the protection of expressions of folklore at the national level, before proceeding to international protection, was also stressed by the delegations of Sweden and the Soviet Union.

82. The delegation of Sweden also emphasized that the possible contents of a relevant treaty should be further explored, e.g. as regards the notion of original works based on folklore, the creation of which should remain exempt from restriction, or concerning the selection of appropriate means of protection, whether those means should be such as generally applied under civil law to the protection of intellectual property, or of a public law nature.

83. The delegation of the United States of America emphasized the importance of preserving the authenticity of expressions of folklore as well as legally linking them to the community in which they originated. As regards the means of protection, it stressed the necessity of providing for a variety of solutions the choice of which should be left open to countries becoming party to the proposed treaty, and it suggested exploration of all possibilities as they develop in practice until proper solutions emerge.

84. The delegation of Italy said that the international treaty must leave room for national solutions and advised further exploration of the subject; it drew attention to the possibilities offered by new technology of sound and audiovisual recording with regard to identifying expressions of folklore.

85. The delegation of the United Kingdom, while understanding the general desire that greater protection should be given to expressions of folklore, referred to the solution proposed in the Paris Act of the Berne Convention for the protection of works of unidentified authors and to the difficulties in implementing even that kind of protection. It doubted if a treaty for the protection of expressions of folklore was the appropriate solution for the present. That delegation expressed its concern about the practicability of the proposed international protection until the questions of definition, identification, conservation and preservation of folklore had been solved and guarantees of maintaining cultural freedom in respect of access to expressions of folklore and their use for creation of new works had been developed; the ongoing study should focus on such questions.

86. The observer from IFPI stressed that the proposed international treaty would also affect industrialized countries; it should be based on clearly defined notions and drafted in a more flexible manner in order to be widely acceptable. The means of its implementation should be left to the Contracting States in a way similar to that which has been adopted in the Phonograms Convention. The observer also suggested exploration of existing means of protection; e.g. national legislation should provide under Article 9 of the Rome Convention also protection of performers performing expressions of folklore not qualifying as literary or artistic work. He emphasized that by protecting the producer of a phonogram of an expression of folklore also the expression concerned can be protected.

87. In conclusion, the Permanent Committee noted with satisfaction that the International Bureau would, in cooperation with Unesco if Unesco so wishes, further explore various aspects of an effective legal protection of expressions of folkore, at both the national and international levels, taking into account the observations and suggestions made by the delegations.

Application and Practical Administration of Laws on Copyright and Neighboring Rights: Regional Survey

88. Discussion was based on document CP/DA/VI/7.

89. The Permanent Committee noted the contents of document CP/DA/VI/7 and the statement of the International Bureau.

Status of Accessions to or Ratifications of Treaties on Copyright and Neighboring Rights

90. Discussions were based on document CP/DA/VI/8. In addition to the information contained in the document, the International Bureau of WIPO reported on the prospects of accession to various international conventions in the field of copyright and neighboring rights according to the information it had received.

91. The delegation of Peru recalled the decision of its country to accede to the Berne, Rome, Phonograms and Satellites Conventions, and expressed the hope that the relevant instruments to this effect would be deposited shortly.

92. The delegation of Sweden referred to the need for providing guidance to national legislators on the implementation of existing international conventions with regard to the impact of modern technology on the protection of copyright and neighboring rights and suggested compilation of the model provisions, guiding principles and recommendations so far elaborated under the auspices of WIPO or the joint auspices of WIPO and Unesco.

93. The delegation of India indicated that legislation was being prepared in its country for the protection of performing artists, with a view to enabling India to adhere to the Rome Convention. The delegation drew attention to its suggestion made earlier at this meeting that WIPO also prepare a Guide to the Satellites Convention. With regard to the promotion of adherence to the Multilateral Convention for the Avoidance of Double Taxation of Copyright Royalties, the delegation proposed that WIPO explore the reasons as to why the industrialized countries had hitherto refrained from adhering to that Convention.

94. The delegation of Guinea stressed the importance of protecting performing artists with special regard to the role they play in the development of African culture and requested WIPO to intensify efforts to induce countries that had not so far done so, to provide for the protection of neighboring rights and to adhere to the Rome Convention.

95. The delegation of Spain informed the Committee about the ongoing preparation for a revision of the Spanish Copyright Act of 1879, which would also incorporate the protection of neighboring rights, enabling Spain to adhere to the Rome Convention; the delegation stated that its Government also planned the ratification of the Satellites Convention in the near future.

96. The delegation of Saudi Arabia stressed the importance of the Satellites Convention with special regard to the recently launched Arab satellite and supported the delegation of India in proposing the preparation of a Guide to that Convention, to be published also in Arabic.

97. The delegation of Italy stated that the possibility of protecting performances of expressions of folklore by means of protecting recordings of such performances was an additional argument in favor of developing countries adhering to the Rome Convention.

98. The delegation of Japan suggested that regional seminars should be organized in Asia for the promotion in that region of adherences to the Berne Convention and the conventions on the protection of neighboring rights.

99. The International Bureau noted the information given as well as the suggestions made by the delegations and stated that it would consider these in formulation of its further activities.

100. The Permanent Committee noted the information contained in document CP/DA/VI/8 and the statements made. It invited the governments of States not yet party to one or other of the conventions mentioned in this document to consider the possibility of adherence to the said conventions.

Need for "National Chambers of Copyright" in Developing Countries

101. Discussions were based on document CP/DA/VI/9.

102. The delegation of Italy, supported by the delegations of Morocco and the United Kingdom and the observer from IFPI, wondered whether it would not be preferable to envisage the setting up of standing consultative bodies that could give advice on copyright matters to the competent authorities.

103. The delegation of the United Kingdom, supported by the observer from IPA, believed that such consultative bodies would be most likely to create an effective role for themselves if their membership was restricted to those whose likelihood depended on copyright.

104. The delegation of Italy, supported by the delegations of Mexico, Morocco, Portugal, Sweden and the United Kingdom and the observers from IFPI and IPA, emphasized the importance, whatever the chosen solution, of avoiding duplication of existing bodies.

105. The delegation of the Soviet Union spoke in favor of the ideas contained in the document submitted to the Permanent Committee. It stated that, in its opinion, the field of copyright should not be limited to matters of collecting and distributing royalties, but should be extended to cover copyright information, the social advancement of authors and

the promotion of creation. It referred to the role played in that respect by VAAP in the Soviet Union. In its opinion, the term "Chambers" would be preferable to that of "Councils."

106. The delegation of Guinea stated that, in its opinion, it would be preferable to extend the powers of intervention of such bodies to matters of industrial property and that they ought rather to be called "Chambers of Intellectual Property." It further emphasized that regional aspects, particularly in Africa, deserved attentive consideration.

107. The delegation of Sudan stated that a society of Sudanese publishers and a society of Sudanese authors had recently been set up and it expressed the wish that WIPO should provide technical aid in the establishment of such bodies in developing countries.

108. The delegation of Sweden reiterated its reservation expressed at the 1983 session of the Permanent Committee and emphasized its opinion that such bodies should have overall responsabilities that also covered neighboring rights. The opinion of the delegation of Sweden was that the setting up of such bodies deserved to be studied with regard to (i) furthering the protection of copyright and neighboring rights in general; (ii) being in charge of the following tasks: channelling discussions between the Government and parties interested in intellectual property, furthering relevant legislation, ensuring proper implementation of the law, providing collective representation of authors and beneficiaries of neighboring rights, assisting individual rights owners in the exercise of their rights; (iii) ensuring equitable balance between the protection of interests of various groups of beneficiaries; (iv) exploring the possibilities of establishing regional chambers of right owners. The chambers in question should be independent bodies in which the Government might be represented. The findings of the study undertaken by WIPO in 1979 on the support of national authors should also be considered in this context.

109. The delegation of Portugal suggested consideration of representation of consumers in the chamber of copyright, and the implications of the fact that certain countries are mainly exporters of intellectual productions whereas others are mainly importers thereof.

110. The observer from China stated that it was most useful to study the various questions raised by the setting up of "National Chambers of Copyright." It would appear necessary to set up national institutions in order to implement copyright legislation, but that did not prevent certain sectors (e.g. publishing, film-making, phonograph industry, etc.) from having a part to play in the dissemination of works. In the opinion of the observer from China, such national institutions should represent the interests of their countries' authors at the international level, they should also constitute copyright information centers and should undertake the training of the necessary administrative staff. Referring to the studies of copyright legislation and administration currently being undertaken in his country, the observer from China expressed his wish to receive continuing advice from WIPO.

111. The delegation of India said that the proposed chamber should be both an advisory body and a source of information.

112. The delegation of the United Kingdom commented that the success of national chambers of copyright was hard to predict, and that it might be worth WIPO supporting a pilot exercise in a country willing to host such a development.

113. The delegation of Brazil pointed out that a contribution in the shape of a study has been provided to the International Bureau by the Brazilian Copyright Council.

114. The observer from IFPI pointed out that it had to be ensured that the setting up of national bodies did not result in government intervention in the administration of royalties. In any event, such bodies ought to encompass all categories of copyright or neighboring rights beneficiaries.

115. The observer from CISAC stated that a chamber of copyright should be a consultative body as is the British Copyright Council and should promote appropriate legislation by giving information about actual facts affecting national interests relating to copyright.

116. The Permanent Committee noted with satisfaction that the International Bureau of WIPO would continue the study concerning the setting up of such National Chambers of Copyright keeping in view the statements made in the present meeting.

The Permanent Program in 1986 and 1987

117. Discussions were based on document CP/DA/VI/10.

118. At the outset, the International Bureau mentioned that this Permanent Committee, already hav-

ing a membership of 64 States, is gaining real authority for discussing programs of WIPO in the field of copyright and neighboring rights in so far as developing countries are concerned. The Permanent Committee has certainly helped to increase awareness and encourage legislation and infrastructural set up in the field of copyright and neighboring rights. The activities under the Permanent Program have helped to maintain a permanent dialogue with and among developing countries, to assess and follow their needs, and thereby to be realistic in shaping programs in the field of copyright and neighboring rights with respect to developing countries. The International Bureau thanked industrialized countries and institutions in those countries for their assistance which has greatly contributed to the momentum of these programs; it also offered its sincere thanks to the increasing number of developing countries which were helping to host meetings, lending experts and consultants, and generally helping to make these programs result-oriented. The International Bureau proposed to proceed on the same lines during the forthcoming biennium, and to improve the programs qualitatively as well as to increase their impetus. It, in particular, drew attention to paragraph 14 of document CP/DA/VI/10 which spelt out the new priorities and the new approaches in the implementation of the Permanent Program during the forthcoming biennium 1986-1987.

119. Several delegations expressed their support to the Program of WIPO in the field of development cooperation related to copyright and neighboring rights envisaged for the next biennium 1986-1987 and, in particular, the new priorities as indicated in paragraph 14 of document CP/DA/VI/10.

120. The delegations of Brazil, Egypt, Honduras, India, Niger and Sweden referred to the desirability of augmentation of resources, to the extent possible, for the implementation of the Permanent Program; suggested augmentation of the programs of training courses and meetings in developing countries on a regional or sub-regional basis; this latter suggestion was also endorsed by the observer from China; while the observer from Lesotho suggested that countries should be grouped at such regional or sub-regional meetings on the basis of common interests or on the basis of topics to be discussed and not merely on the basis of language.

121. The delegation of Guinea sought assistance in regard to protection of folklore and the teaching of intellectual property law; the delegation of Togo also suggested training of teachers at secondary and university levels for imparting knowledge of copyright.

122. The delegation of Egypt requested assistance to establish a national infrastructure for administering and implementing copyright. It also suggested holding of an international conference of writers and an exhibition of works specially of young authors and awarding prizes for the best of such works.

123. The delegation of Australia offered to host a WIPO-funded program on copyright for Southeast Asia and Oceania in 1986. To this end it offered to provide the venue for the course, administrative support and Australian lecturers and speakers, at no cost to the Organization. It would also be interested, in cooperation with private organizations such as the Australian Copyright Council, in developing a program to enable participants to spend a period of time with organizations involved in the practical administration of copyright and neighboring rights.

124. The observer from Unesco congratulated WIPO for its efforts to meet the needs of developing countries in respect of legislative and infrastructural facilities, as also for the quality of documentation provided for the meeting. He extended Unesco's full cooperation and support to WIPO in respect of the Program jointly undertaken by the two Organizations in the field of copyright and neighboring rights, such as model provisions concerning the protection of expressions of folklore, the Joint International Service, etc. He also offered Unesco's cooperation in further activities that WIPO might undertake in the field of containing piracy of intellectual works; he gave a résumé of Unesco's activities in this regard.

125. The International Bureau stated that it had noted the comments made by the various delegations in the course of discussion on this item of the agenda.

126. The Permanent Committee noted the contents of document CP/DA/VI/10 and the statement of the International Bureau.

Adoption of the Report and Closing of the Session

127. The Permanent Committee unanimously adopted this report after which the Chairman declared the session closed.

List of Participants

I. Member States

Australia: N.D. Campbell. **Benin:** S. Ahokpa. **Brazil:** P. Franca. **Burkina Faso:** S. Ouedraogo. **Cameroon:** P. Ilouga Mabout; W. Eyambé. **Canada:** R. Hornby. **Chile:** J. Bustos; J. Acuna. **Congo:** D. Ganga Bidié. **Costa Rica:** E. Soley Soler; L.C. Delgado Murillo. **Czechoslovakia:** M. Slamova. **Egypt:** S. Alfarargi; L. Shanab; W.Z. Kamil; M. Daghash. **El Salvador:** V. Minero. **France:** N. Renaudin. **German Democratic Republic:** K.D. Peters. **Germany (Federal Republic of):** C. Wunderlich. **Ghana:** K. Wudu. **Guatemala:** R. Valverde–Contreras. **Guinea:** W. Doukouré. **Honduras:** J.M. Ritter. **Hungary:** M. Ficsor. **India:** K. Thairani; S.R. Tayal. **Israel:** M.M. Shaton. **Italy:** G. Aversa. **Japan:** K. Sakamoto. **Malawi:** J.B. Villiera; M.H. Chirambo. **Mali:** D. Kane. **Mexico:** F. Cruz Gonzalez. **Morocco:** M. Eloufir. **Niger:** A. Moumouni Djermakoye. **Norway:** E. Andhoy. **Pakistan:** Z. Akram. **Peru:** R. Villaran Koechlin; S. Vegas de Otero. **Philippines:** A. Catubig. **Portugal:** A.M. Pereira. **Saudi Arabia:** M. Al Mesfer; E. Al Mussallam; N. Kanan. **Somalia:** F. Eno–Hassan. **Soviet Union:** A. Orlov; E. Sharaevsky. **Spain:** D.L. Martinez Garnica; D.A. Delgado. **Sudan:** A.A. El Sayed. **Sweden:** A.H. Olsson. **Togo:** S.K. Tsogbe. **Tunisia:** H. Boufares; T. Ben Slama. **Turkey:** E. Apakan. **United Kingdom:** H.P.N. Steinitz. **United States of America:** W. Skok; M. Peters.

II. Observer States

Afghanistan: M.A. Kherad. **Algeria:** H. Touati. **Argentina:** R. Villambrosa. **Cape Verde:** J.M. Pinto Montero. **China:** Liu G.; Shen R.; Huang Z. **Indonesia:** O.Ch. Besila. **Jamaica:** P.A. Robotham. **Lesotho:** M.A. Ntlhoki. **Madagascar:** P. Verdoux. **Mozambique:** D.M. Da Silva. **Qatar:** Y. Darwish. **Trinidad and Tobago:** H. Robertson.

III. Intergovernmental Organizations

International Labour Organisation (ILO): C. Privat. **United Nations Educational, Scientific and Cultural Organization (UNESCO):** A. Garzon. **Arab League Educational, Cultural and Scientific Organization (ALECSO):** A. Derradji.

IV. International Non–Governmental Organizations

European Broadcasting Union (EBU): W. Rumphorst; J. Briquemont. **International Bureau of Societies Administering the Rights of Mechanical Recording and Reproduction (BIEM):** D. de Freitas. **International Confederation of Societies of Authors and Composers (CISAC):** D. de Freitas. **International Copyright Society (INTERGU):** G. Halla. **International Federation of Actors (FIA):** R. Rembe. **International Federation of Associations of Film Distributors (FIAD):** G. Grégoire. **International Federation of Musicians (FIM):** Y. Burckhardt. **International Federation of Phonogram and Videogram Producers (IFPI):** G. Davies; E. Thompson; A.M. Fonseca. **International Publishers Association (IPA):** J.A. Koutchoumow. **International Secretariat of Arts, Communications, Media and Entertainment Trade Unions (ISETU):** I. Robadey.

VI. Secretariat

A. Bogsch *(Director General)*; M. Porzio *(Deputy Director General)*; C. Masouyé *(Director, Public Information and Copyright Department)*; S. Alikhan *(Director, Developing Countries Division (Copyright))*; G. Boytha *(Director, Copyright Law Division)*.

V. Officers

Chairman: W. Doukouré (Guinea). *Vice–Chairmen:* G. Aversa (Italy); M. Al Mesfer (Saudi Arabia). *Secretary:* S. Alikhan (WIPO).

Notifications

Convention Establishing the World Intellectual Property Organization

BANGLADESH

Accession

The Government of the People's Republic of Bangladesh deposited, on February 11, 1985, 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 People's Republic of Bangladesh, three months after the date of deposit of its instrument of accession, that is, on May 11, 1985.

WIPO Notification No. 133, of February 12, 1985.

National Legislation

FINLAND

I

Act Amending the Act Relating to Copyright in Literary and Artistic Works

(No. 960, of December 17, 1982)*

In accordance with the decision of the Parliament, § 29 of the Act (404/61) Relating to Copyright in Literary and Artistic Works, issued on July 8, 1961,[1] is amended as follows:

§ 29. The provisions of the Contracts Act (228/29) shall be in force with respect to the adjustment of an unfair condition in an agreement made regarding the transfer of copyright.

This Act shall come into force on January 1, 1983. It shall also apply to agreements regarding the transfer of copyright, made before the entry into force of this Act.

* English translation received from the Finnish Ministry of Education.

[1] See *Le Droit d'Auteur (Copyright)*, 1963, p. 23.

II

Act Amending the Act Relating to Copyright in Literary and Artistic Works

(No. 442, of June 8, 1984)*

In accordance with the decision of the Parliament

§ 62, third paragraph of the Act (404/61) Relating to Copyright in Literary and Artistic Works, issued on July 8, 1961,[1] is repealed,

the name of the Act, § 17, § 45, third paragraph, § 46, second paragraph, § 48, third paragraph, §§ 54, 55, 56 and 57 and § 62, first paragraph, are amended and

a new chapter 2a and new §§ 56a and 56b are added as follows:

Copyright Act

§ 17. Whenever an organization representing a large number of Finnish authors in a certain field has given an authorization for the making, on agreed–upon conditions, of copies by audio or video recording of a disseminated work included in a radio or television broadcast, for use in educational activities or in scientific research, the recipient of such an authorization may on corresponding conditions make copies also of a work of the same field, included in a broadcast, the author of which is not represented by the organization. The provisions of § 11a, second and third paragraphs, shall respectively be applied to an organization referred to in the present paragraph and to the author of a work included in a broadcast, referred to in the present paragraph.

* English translation received from the Finnish Ministry of Education.

[1] See *Le Droit d'Auteur (Copyright)*, 1963, p. 21; *Copyright*, 1976, p. 260 and 1982, p. 150.

In educational activities it is permitted to reproduce by direct audio or video recording a disseminated work performed by a teacher or a student, for temporary use in educational activities. A copy thus made shall not be used for any other purpose.

CHAPTER 2a

Compensation for the making of copies of a work, for private use

§ 26a. Whenever an audio or video tape or any other instrument on which a sound or an image can be recorded and which is suitable for making a copy for private use of a work broadcast by radio or television or a work on an audio or video recording, is produced or imported into the country for the purpose of distribution to the public, the manufacturer or the importer shall pay a levy, set on the basis of the playing time of the instrument, for use for compensations to be paid out to the authors of the said works and for joint purposes of the author. The compensations shall be paid out to the authors through an organization representing a large number of Finnish authors of a certain field, entitled to compensation.

The Ministry of Education shall annually set the amount of the levy after negotiating with the organizations representing the manufacturers and the importers, as well as the authors, referred to in the first paragraph. The levy shall be set at such an amount that it can be regarded as fair compensation for the making of copies of works for private use.

§ 26b. The levy shall be collected by an organization representing a large number of Finnish authors, which organization the Ministry of Education has approved for this task for a fixed period of time, at maximum for five years. It shall be a prerequisite for the approval that the organization binds itself to use a proportion, annually agreed upon by the Ministry of Education and the said organization, of the proceeds of the levy for joint purposes of the authors in accordance with a plan approved by the Ministry of Education for the use of the levied funds.

§ 26c. The Ministry of Education may issue to the organization more detailed instructions regarding the collection of the levy and the management of the funds levied. The Ministry shall control that the levy is collected in accordance with the instructions and that the plan for the use of the funds is upheld. The Ministry of Education shall have the right to obtain from the organization any information necessary for such control.

The Ministry of Education may withdraw its approval of an organization if the organization does not comply with the instructions issued to it or with the plan for the use of the funds, or if it does not provide the information required for the control.

§ 26d. The organization shall have the right, notwithstanding the secrecy provisions of the Customs Act (573/78), to obtain from a customs authority, regarding individual import consignments, any information necessary for the collection.

The manufacturer or importer of an instrument shall provide the organization with the information, necessary for the collection, regarding the instruments manufactured or imported by him.

Whoever on the basis of the first or second paragraph has received information regarding the business activities of another shall not use it illegally or reveal it to others.

§ 26e. Whoever uses or exports an instrument shall have the right to receive repayment corresponding to the levy paid for instruments:

(1) which are exported;

(2) which are used for professional audio or video recording;

(3) which are used for the making of audio or video recordings intended for those with impaired vision or hearing; and

(4) which the Ministry of Education has for an especially important reason exempted from the levy.

Unless such repayment is requested verifiably within three months from the end of the year during which the right to the repayment came into being, this right shall expire.

§ 26f. If it can be proved that the user or the exporter would, under § 26e, first paragraph, have the right to repayment for all instruments included in a certain batch manufactured or consignment imported, or for a considerable proportion of them, the levy may be left uncollected in respect to it.

§ 26g. It shall not be possible to seek change, through appeal, to a Ministry of Education decision by which the amount of the levy has been set on the basis of § 26a, second paragraph, or by which an organization has been approved on the basis of § 26b, or by which an instrument has been granted exemption from the levy on the basis of § 26e, first paragraph, item (4).

§ 26h. More detailed provisions regarding the application of §§ 26a – 26g shall be issued by decree.

§ 45. . . . .
The provisions of § 3; § 11, first to third paragraphs; § 14, first paragraph; §§ 17, 20 and 21; § 22, first paragraph; §§ 26a – 26h, 27 – 29; and §§ 41 and 42 shall respectively be applied to the recording of a performance on an instrument, or making it available to the public, or its communication, referred to in the present Article.

§ 46. . . . .
The provisions of § 11, first to third paragraphs; § 14, first paragraph; §§ 17 and 21; and § 22, first paragraph; and §§ 26a – 26h shall respectively be applied to any procedure for which under the first paragraph the consent of the producer is required.

§ 48. . . . .
The provisions of § 11, first to third paragraphs; § 14, first paragraph; §§ 20 and 21; and § 22, first paragraph, shall respectively apply in the cases referred to in the first and second paragraphs above.

§ 54. A question regarding compensation referred to in § 14, second paragraph; § 16, second paragraph; § 22, second paragraph; or § 47, first paragraph, regarding the granting of an authorization referred to in § 11a and the conditions of such authorization when the matter pertains to the making of copies for use in educational activities, and regarding the granting of an authorization referred to in § 17 and the conditions of such authorization when the matter pertains to the making of copies of a work included in a program produced and broadcast for educational purposes, shall, in the event of a dispute, be settled by arbitration in the manner provided by decree.

The parties concerned may also agree that the matter be submitted to arbiters to settle in compliance with the Act regarding Arbitration.

An authorization given on the basis of the present Article shall have the same effect as an authorization referred to in § 11a or 17.

§ 55. The Council of State shall appoint a Copyright Council the function of which shall be to assist the Ministry of Education in the handling of matters pertaining to copyright and to issue statements regarding the application of the present Act.

More detailed provisions regarding the Copyright Council shall be issued by decree.

§ 56. Anyone who wilfully, for gain

(1) produces a copy of a work or makes a work available to the public in violation of the present Act; or

(2) imports into the country a copy of a work for distribution to the public, which copy has been produced outside the country under such circumstances that such production in Finland would have been punishable under the present Act,

shall, if the act shall be regarded as being gross owing to the large number of copies of the work, the extent of the activity, or some other comparable reason, be sentenced for a *copyright crime* to a fine or to an imprisonment of a maximum of two years.

§ 56a. Anyone who

(1) wilfully or out of gross negligence violates a provision issued for the protection of copyright in the present Act or acts in violation of an instruction issued under § 41, second paragraph, of a provision of § 51 or 52, or of a prohibition referred to in § 53, first paragraph; or

(2) imports into the country a copy of a work for distribution to the public, which copy he knows or has well–founded reason to suspect to have been produced outside the country under such circumstances that such production in Finland would have been punishable under the present Act,

shall, unless the act is punishable under § 56, be sentenced for a *copyright offense* to a fine or to an imprisonment of a maximum of six months.

§ 56b. Anyone who wilfully violates the provision of § 26d, third paragraph, shall be sentenced for a *breach of confidentiality under the Copyright Act* to a fine or to an imprisonment of a maximum of six months, unless a more severe punishment has been provided for the act elsewhere in law.

§ 57. Anyone who uses a work in violation of the present Act or an instruction given under § 41, second paragraph, shall be obligated to pay the author a fair compensation for such use.

If such use is wilful or out of negligence, the infringer shall, in addition to compensation, also pay damages for any other loss, also for mental suffering and for other injury.

Anyone who, otherwise than by using a work, is guilty of an act punishable under § 56 or 56a, shall be obligated to pay the author damages for any loss, mental suffering or other injury caused by the crime.

The provisions of the Act regarding Damages and Tort Liability (412/74) shall also be in force

regarding the payment of damages referred to above in the second and third paragraphs.

§ 62. A copyright crime and a violation of any provision of § 51 or 52 shall be subject to public prosecution. In other cases a criminal action for a crime referred to in the present Act shall not be brought by a public prosecutor, unless the injured party has reported it for the purpose of prosecution.

. . . .

This Act shall come into force on June 15, 1984.

III

Act Amending the Copyright Act

(No. 578, of July 27, 1984)*

In accordance with the decision of the Parliament,

§ 45, third paragraph and § 46, second paragraph, of the Copyright Act (404/61), issued on July 8, 1961,[1] are amended and

a new second paragraph to § 12 is added as follows:

§ 12. . . . .
The provisions of the Act regarding the Delivery and the Deposit of Films in Archives (576/84) shall be in force regarding the right of the Finnish Film Archive to make copies of a work included in a publicly shown Finnish film or in the advertising or other publicity materials of such a film.

§ 45. . . . .
The provisions of § 3; § 11, first to third paragraphs; § 12, second paragraph; § 14, first paragraph; §§ 17, 20 and 21; § 22, first paragraph; §§ 26a – 26h, 27 – 29; and §§ 41 and 42 shall respectively be applied to the recording of a performance on an instrument, or making it available to the public, or its communication, referred to in the present Article.

§ 46. . . . .
The provisions of § 11, first to third paragraphs; § 12, second paragraph; § 14, first paragraph; §§ 17 and 21; and § 22, first paragraph; and §§ 26a – 26h shall respectively be applied to any procedure for which under the first paragraph the consent of the producer is required.

This Act shall come into force on October 1, 1984.

* English translation received from the Finnish Ministry of Education.

[1] See *Le Droit d'Auteur (Copyright)*, 1963, p. 21; *Copyright*, 1976, p. 260 and 1982, p. 150.

IV

Act Amending the Act on Rights in Photographic Pictures

(No. 443, of June 8, 1984)*

In accordance with the decision of the Parliament

§§ 17, 18, 19, 23 and 24a of the Act on Rights in Photographic Pictures (405/61), issued on June 8, 1961,[1] are amended and

new §§ 5b, 14a and 18a are added to the Act as follows:

[1] See *Le Droit d'Auteur (Copyright)*, 1963, p. 27; *Copyright*, 1976, p. 260 and 1982, p. 151.

* English translation received from the Finnish Ministry of Education.

§ 5b. Whenever an organization representing a large number of Finnish photographers has given an authorization for the making, on agreed–upon conditions, of copies by image–recording of a disseminated photographic picture included in a television broadcast, for use in educational activities or in scientific research, the recipient of such an authorization may on corresponding conditions make copies also of a photographic picture included in a broadcast, the photographer of which photographic picture is not represented by the organization. The provisions of § 5a, second and third paragraphs, shall respectively be applied to an organization referred to in the present Article and to the photographer of a photographic picture included in a broadcast, referred to in the present Article.

§ 14a. Whatever has been provided in Chapter 2a of the Copyright Act regarding works and authors shall respectively be applied to photographic pictures and photographers.

§ 17. A question regarding compensation referred to in § 7, 8 or 10, regarding the granting of an authorization referred to in § 5a and the conditions of such authorization when the matter pertains to the making of copies for use in educational activities, and regarding the granting of an authorization referred to in § 5b and the conditions of such authorization when the matter pertains to the making of copies of a work included in a program produced and broadcast for educational purposes, shall, in the event of a dispute, be settled by arbitration in the manner provided by decree.

The parties concerned may also agree that the matter be submitted to arbiters to settle in compliance with the Act regarding Arbitration (46/28).

An authorization given on the basis of the present Article shall have the same effect as an authorization referred to in § 5a or 5b.

§ 18. Anyone who wilfully, for gain

(1) makes a copy of a photographic picture in violation of the present Act;

(2) by offering for sale or otherwise distributes to the public a copy of a photographic picture, which copy has been made in violation of the present Act; or

(3) imports into the country a copy of a photographic picture for distribution to the public, which copy has been produced outside the country under such circumstances that such production in Finland would have been punishable under the present Act, shall, if the act shall be regarded as being gross owing to the large number of copies of the photographic picture, the extent of the activity, or some other comparable reason, be sentenced for a *crime of violation of a right in a photographic picture* to a fine or to an imprisonment of a maximum of two years.

§ 18a. Anyone who

(1) wilfully or out of gross negligence violates a provision issued, in the present Act, for the protection of the right in a photographic picture;

(2) wilfully or out of gross negligence offers for sale of otherwise distributes to the public a copy of a photographic picture, which copy has been made in violation of the present Act; or

(3) imports into the country a copy of a photographic picture for distribution to the public, which copy he knows or has well–founded reason to suspect to have been produced outside the country under such circumstances that such production in Finland would have been punishable under the present Act,

shall, unless the act is punishable under § 18, be sentenced for an *offense of violation of a right in a photographic picture* to a fine or to an imprisonment of a maximum of six months.

§ 19. Anyone who uses a photographic picture in violation of the present Act shall be obligated to pay the photographer a fair compensation for such use.

If such use is wilful or out of negligence, the infringer shall, in addition to compensation, also pay damages for any other loss, also for mental suffering and for other injury.

Anyone who, otherwise than by using a photographic picture, is guilty of an act punishable under § 18 or 18a shall be obligated to pay the photographer damages for any loss, mental suffering or other injury caused by the crime.

The provisions of the Act regarding Damages and Tort Liability (412/74) shall also be in force regarding the payment of damages referred to above in the second and third paragraphs.

§ 23. A crime of violation of a right in a photographic picture shall be subject to public prosecution, unless the injured party has reported it for the purpose of prosecution.

§ 24a. It shall be the function of the Copyright Council referred to in § 55 of the Copyright Act to assist the Ministry of Education also in the handling of matters pertaining to rights in photographic pictures and to issue statements regarding the application of the present Act.

This Act shall come into force on June 15, 1984.

V

Act Amending § 6 of the Act on Rights in Photographic Pictures

(No. 579, of July 27, 1984)*

In accordance with the decision of the Parliament a new paragraph is added to § 6 of the Act on Rights in Photographic Pictures (405/61), issued on July 8, 1961,[1] as follows:

§ 6. . . . .

The provisions of the Act regarding the Delivery and Deposit of Films in Archives (576/84) shall be in force regarding the right of the Finnish Film Archive to make copies of a photographic picture included in a publicly shown Finnish film or in the advertising or other publicity materials of such a film.

This Act shall come into force on October 1, 1984.

* English translation received from the Finnish Ministry of Education.

[1] See *Le Droit d'Auteur (Copyright)*, 1963, p. 27; *Copyright*, 1976, p. 260 and 1982, p. 151.

UNITED STATES OF AMERICA

I

Record Rental Amendment of 1984

(Public Law 98–450 of October 4, 1984)*

An Act to amend title 17 of the United States Code with respect to rental, lease, or lending of sound recordings

Short title

Sec. 1. This Act may be cited as the "Record Rental Amendment of 1984."

Conditions on Rentals

Sec. 2. Section 109[1] of title 17, United States Code, is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(2) by inserting after subsection (a) the following:

"(b)(1) Notwithstanding the provisions of subsection (a), unless authorized by the owners of copyright in the sound recording and in the musical works embodied therein, the owner of a particular phonorecord may not, for purposes of direct or indirect commercial advantage, dispose of, or authorize the disposal of, the possession of that phonorecord by rental, lease, or lending, or by any other act or practice in the nature of rental, lease, or lending. Nothing in the preceding sentence shall apply to the rental, lease, or lending of a phonorecord for nonprofit purposes by a nonprofit library or nonprofit educational institution.

(2) Nothing in this subsection shall affect any provision of the antitrust laws. For purposes of the preceding sentence, 'antitrust laws' has the meaning given that term in the first section of the Clayton Act and includes section 5 of the Federal Trade Commission Act to the extent that section relates to unfair methods of competition.

(3) Any person who distributes a phonorecord in violation of clause (1) is an infringer of copyright under section 501 of this title and is subject to the remedies set forth in sections 502, 503, 504, 505, and 509. Such violation shall not be a criminal offense under section 506 or cause such person to be subject to the criminal penalties set forth in section 2319 of title 18.".

Compulsory Licenses; Royalties

Sec. 3. Section 115(c)[2] of title 17, United States Code, is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by adding after paragraph (2) the following new paragraph:

"(3) A compulsory license under this section includes the right of the maker of a phonorecord of a nondramatic musical work under subsection (a)(1) to distribute or authorize distribution of such phonorecord by rental, lease, or lending (or by acts or practices in the nature of rental, lease, or lending). In addition to any royalty payable under clause (2) and chapter 8 of this title, a royalty shall be payable by the compulsory licensee for every act of distribution of a phonorecord by or in the nature of rental, lease, or lending, by or under the authority of the compulsory licensee. With respect to each nondramatic musical work embodied in the phonorecord, the royalty shall be a proportion of the revenue received by the compulsory licensee from every such act of distribution of the phonorecord under this clause equal to the proportion of the revenue received by the compulsory licensee from distribution of the phonorecord under clause (2) that is payable by a compulsory licensee under that clause and under chapter 8. The Register of Copyrights shall issue regulations to carry out the purpose of this clause.".

* *Entry into force:* October 4, 1984.
Source: Communication from the United States authorities.
[1] See *Copyright*, 1977, pp. 158–159.

[2] *Ibid.*, pp. 171–172.

Effective Date

Sec. 4. (a) The amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) The provisions of section 109(b) of title 17, United States Code, as added by section 2 of this Act, shall not affect the right of an owner of a particular phonorecord of a sound recording, who acquired such ownership before the date of the enactment of this Act, to dispose of the possession of that particular phonorecord on or after such date of enactment in any manner permitted by section 109 of title 17, United States Code, as in effect on the day before the date of the enactment of this Act.

(c) The amendments made by this Act shall not apply to rentals, leasings, lendings (or acts or practices in the nature of rentals, leasings, or lendings) occurring after the date which is five years after the date of the enactment of this Act.

II

Semiconductor Chip Protection Act of 1984

(Title III of Public Law 98–620 of November 8, 1984)*

Short Title

Sec. 301. This title may be cited as the "Semiconductor Chip Protection Act of 1984."

Protection of Semiconductor Chip Products

Sec. 302. Title 17, United States Code,[1] is amended by adding at the end thereof the following new chapter.

Chapter 9—Protection of Semiconductor Chip Products

Sec.
901. Definitions.
902. Subject matter of protection.
903. Ownership and transfer.
904. Duration of protection.
905. Exclusive rights in mask works.
906. Limitation on exclusive rights: reverse engineering; first sale.
907. Limitation on exclusive rights: innocent infringement.
908. Registration of claims of protection.
909. Mask work notice.
910. Enforcement of exclusive rights.
911. Civil actions.
912. Relation to other laws.
913. Transitional provisions.
914. International transitional provisions.

§ 901. Definitions

(a) As used in this chapter—

(1) a "semiconductor chip product" is the final or intermediate form of any product—

(A) having two or more layers of metallic, insulating, or semiconductor material, deposited or otherwise placed on, or etched away or otherwise removed from, a piece of semiconductor material in accordance with a predetermined pattern; and

(B) intended to perform electronic circuitry functions;

(2) a "mask work" is a series of related images, however fixed or encoded—

(A) having or representing the predetermined, three-dimensional pattern of metallic, insulating, or semiconductor material present or removed from the layers of a semiconductor chip product; and

(B) in which series the relation of the images to one another is that each image has the pattern of the surface of one form of the semiconductor chip product;

(3) a mask work is "fixed" in a semiconductor chip product when its embodiment in the product is sufficiently permanent or stable to permit the mask work to be perceived or reproduced from the product for a period of more than transitory duration;

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* *Entry into force:* November 8, 1984.
Source: Communication from the United States authorities.
[1] Title 17 = Copyrights *(Editor's note).*

(4) to "distribute" means to sell, or to lease, bail, or otherwise transfer, or to offer to sell, lease, bail, or otherwise transfer;

(5) to "commercially exploit" a mask work is to distribute to the public for commercial purposes a semiconductor chip product embodying the mask work; except that such term includes an offer to sell or transfer a semiconductor chip product only when the offer is in writing and occurs after the mask work is fixed in the semiconductor chip product;

(6) the "owner" of a mask work is the person who created the mask work, the legal representative of that person if that person is deceased or under a legal incapacity, or a party to whom all the rights under this chapter of such person or representative are transferred in accordance with section 903(b); except that, in the case of a work made within the scope of a person's employment, the owner is the employer for whom the person created the mask work or a party to whom all the rights under this chapter of the employer are transferred in accordance with section 903(b);

(7) an "innocent purchaser" is a person who purchases a semiconductor chip product in good faith and without having notice of protection with respect to the semiconductor chip product;

(8) having "notice of protection" means having actual knowledge that, or reasonable grounds to believe that, a mask work is protected under this chapter; and

(9) an "infringing semiconductor chip product" is a semiconductor chip product which is made, imported, or distributed in violation of the exclusive rights of the owner of a mask work under this chapter.

(b) For purposes of this chapter, the distribution or importation of a product incorporating a semiconductor chip product as a part thereof is a distribution or importation of that semiconductor chip product.

§ 902. Subject matter of protection

(a)(1) Subject to the provisions of subsection (b), a mask work fixed in a semiconductor chip product, by or under the authority of the owner of the mask work, is eligible for protection under this chapter if—

(A) on the date on which the mask work is registered under section 908, or is first commercially exploited anywhere in the world, whichever occurs first, the owner of the mask work is (i) a national or domiciliary of the United States, (ii) a national, domiciliary, or sovereign authority of a foreign nation that is a party to a treaty affording protection to mask works to which the United States is also a party, or (iii) a stateless person, wherever that person may be domiciled;

(B) the mask work is first commercially exploited in the United States; or

(C) the mask work comes within the scope of a Presidential proclamation issued under paragraph (2).

(2) Whenever the President finds that a foreign nation extends, to mask works of owners who are nationals or domiciliaries of the United States protection (A) on substantially the same basis as that on which the foreign nation extends protection to mask works of its own nationals and domiciliaries and mask works first commercially exploited in that nation, or (B) on substantially the same basis as provided in this chapter, the President may by proclamation extend protection under this chapter to mask works (i) of owners who are, on the date on which the mask works are registered under section 908, or the date on which the mask works are first commercially exploited anywhere in the world, whichever occurs first, nationals, domiciliaries, or sovereign authorities of that nation, or (ii) which are first commercially exploited in that nation.

(b) Protection under this chapter shall not be available for a mask work that—

(1) is not original; or

(2) consists of designs that are staple, commonplace, or familiar in the semiconductor industry, or variations of such designs, combined in a way that, considered as a whole, is not original.

(c) In no case does protection under this chapter for a mask work extend to any idea, procedure, process, system, method of operation, concept, principle, or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such work.

§ 903. Ownership, transfer, licensing and recordation

(a) The exclusive rights in a mask work subject to protection under this chapter belong to the owner of the mask work.

(b) The owner of the exclusive rights in a mask work may transfer all of those rights, or license all or less than all of those rights, by any written instrument signed by such owner or a duly authorized agent of the owner. Such rights may be transferred or licensed by operation of law, may be bequeathed by will, and may pass as personal property by the applicable laws of intestate succession.

(c)(1) Any document pertaining to a mask work may be recorded in the Copyright Office if the docu-

ment filed for recordation bears the actual signature of the person who executed it, or if it is accompanied by a sworn or official certification that it is a true copy of the original, signed document. The Register of Copyrights shall, upon receipt of the document and the fee specified pursuant to section 908(d), record the document and return it with a certificate of recordation. The recordation of any transfer or license under this paragraph gives all persons constructive notice of the facts stated in the recorded document concerning the transfer or license.

(2) In any case in which conflicting transfers of the exclusive rights in a mask work are made, the transfer first executed shall be void as against a subsequent transfer which is made for a valuable consideration and without notice of the first transfer, unless the first transfer is recorded in accordance with paragraph (1) within three months after the date on which it is executed, but in no case later than the day before the date of such subsequent transfer.

(d) Mask works prepared by an officer or employee of the United States Government as part of that person's official duties are not protected under this chapter, but the United States Government is not precluded from receiving and holding exclusive rights in mask works transferred to the Government under subsection (b).

§ 904. Duration of protection

(a) The protection provided for a mask work under this chapter shall commence on the date on which the mask work is registered under section 908, or the date on which the mask work is first commercially exploited anywhere in the world, whichever occurs first.

(b) Subject to subsection (c) and the provisions of this chapter, the protection provided under this chapter to a mask work shall end 10 years after the date on which such protection commences. under subsection (a).

(c) All terms of protection provided in this section shall run to the end of the calendar year in which they would otherwise expire.

§ 905. Exclusive rights in mask works

The owner of a mask work provided protection under this chapter has the exclusive rights to do and to authorize any of the following:

(1) to reproduce the mask work by optical, electronic or any other means;

(2) to import or distribute a semiconductor chip product in which the mask work is embodied; and

(3) to induce or knowingly to cause another person to do any of the acts described in paragraphs (1) and (2).

§ 906. Limitation on exclusive rights: reverse engineering; first sale

(a) Notwithstanding the provisions of section 905, it is not an infringement of the exclusive rights of the owner of a mask work for—

(1) a person to reproduce the mask work solely for the purpose of teaching, analyzing, or evaluating the concepts of techniques embodied in the mask work or the circuitry, logic flow, or organization of components used in the mask work; or

(2) a person who performs the analysis or evaluation described in paragraph (1) to incorporate the result of such conduct in an original mask work which is made to be distributed.

(b) Notwithstanding the provisions of section 905(2), the owner of a particular semiconductor chip product made by the owner of the mask work, or by any person authorized by the owner of the mask work, may import, distribute, or otherwise dispose of or use, but not reproduce, that particular semiconductor chip product without the authority of the owner of the mask work.

§ 907. Limitation on exclusive rights: innocent infringement

(a) Notwithstanding any other provision of this chapter, an innocent purchaser of an infringing semiconductor chip product—

(1) shall incur no liability under this chapter with respect to the importation or distribution of units of the infringing semiconductor chip product that occurs before the innocent purchaser has notice of protection with respect to the mask work embodied in the semiconductor chip product; and

(2) shall be liable only for a reasonable royalty on each unit of the infringing semiconductor chip product that the innocent purchaser imports or distributes after having notice of protection with respect to the mask work embodied in the semiconductor chip product.

(b) The amount of the royalty referred to in subsection (a)(2) shall be determined by the court in a civil action for infringement unless the parties resolve the issue by voluntary negotiation, mediation, or binding arbitration.

(c) The immunity of an innocent purchaser from liability referred to in subsection (a)(1) and

the limitation of remedies with respect to an innocent purchaser referred to in subsection (a)(2) shall extend to any person who directly or indirectly purchases an infringing semiconductor chip product from an innocent purchaser.

(d) The provisions of subsections (a), (b), and (c) apply only with respect to those units of an infringing semiconductor chip product that an innocent purchaser purchased before having notice of protection with respect to the mask work embodied in the semiconductor chip product.

§ 908. Registration of claims of protection

(a) The owner of a mask work may apply to the Register of Copyrights for registration of a claim of protection in a mask work. Protection of a mask work under this chapter shall terminate if application for registration of a claim of protection in the mask work is not made as provided in this chapter within two years after the date on which the mask work is first commercially exploited anywhere in the world.

(b) The Register of Copyrights shall be responsible for all administrative functions and duties under this chapter. Except for section 708, the provisions of chapter 7 of this title relating to the general responsibilities, organization, regulatory authority, actions, records, and publications of the Copyright Office shall apply to this chapter, except that the Register of Copyrights may make such changes as may be necessary in applying those provisions to this chapter.

(c) The application for registration of a mask work shall be made on a form prescribed by the Register of Copyrights. Such form may require any information regarded by the Register as bearing upon the preparation or identification of the mask work, the existence or duration of protection of the mask work under this chapter or ownership of the mask work. The application shall be accompanied by the fee set pursuant to subsection (d) and the identifying material specified pursuant to such subsection.

(d) The Register of Copyrights shall by regulation set reasonable fees for the filing of applications to register claims of protection in mask works under this chapter, and for other services relating to the administration of this chapter or the rights under this chapter, taking into consideration the cost of providing those services, the benefits of a public record and statutory fee schedules under this title. The Register shall also specify the identifying material to be deposited in connection with the claim for registration.

(e) If the Register of Copyrights, after examining an application for registration, determines in accordance with the provisions of this chapter, that the application relates to a mask work which is entitled to protection under this chapter, then the Register shall register the claim of protection and issue to the applicant a certificate of registration of the claim of protection under the seal of the Copyright Office. The effective date of registration of a claim of protection shall be the date on which an application, deposit of identifying material, and fee, which are determined by the Register of Copyrights or by a court of competent jurisdiction to be acceptable for registration of the claim, have all been received in the Copyright Office.

(f) In any action for infringement under this chapter, the certificate of registration of a mask work shall constitute prima facie evidence (1) of the facts stated in the certificate, and (2) that the applicant issued the certificate has met the requirements of this chapter, and the regulations issued under this chapter, with respect to the registration of claims.

(g) Any applicant for registration under this section who is dissatisfied with the refusal of the Register of Copyrights to issue a certificate of registration under this section may seek judicial review of that refusal by bringing an action for such review in an appropriate United States district court not later than 60 days after the refusal. The provisions of chapter 7 of title 5[2] shall apply to such judicial review. The failure of the Register of Copyrights to issue a certificate of registration within four months after an application for registration is filed shall be deemed to be a refusal to issue a certificate of registration for purposes of this subsection and section 910(b)(2), except that, upon a showing of good cause, the district court may shorten such four–month period.

§ 909. Mask work notice

(a) The owner of a mask work provided protection under this chapter may affix notice to the mask work, and to masks and semiconductor chip products embodying the mask work, in such manner and location as to give reasonable notice of such protection. The Register of Copyrights shall prescribe by regulation, as examples, specific methods of affixation and positions of notice for purposes of this section, but these specifications shall not be considered exhaustive. The affixation of such notice is not a condition of protection under this chapter, but shall constitute prima facie evidence of notice of protection.

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[2] Title 5 = Government Organization and Employees *(Editor's note)*.

(b) The notice referred to in subsection (a) shall consist of—

(1) the words "mask work", the symbol *M*, or the symbol M (the letter M in a circle); and

(2) the name of the owner or owners of the mask work or an abbreviation by which the name is recognized or is generally known.

§ 910. Enforcement of exclusive rights

(a) Except as otherwise provided in this chapter any person who violates any of the exclusive rights of the owner of a mask work under this chapter, by conduct in or affecting commerce, shall be liable as an infringer of such rights.

(b)(1) The owner of a mask work protected under this chapter, or the exclusive licensee of all rights under this chapter with respect to the mask work, shall, after a certificate of registration of a claim of protection in that mask work has been issued under section 908, be entitled to institute a civil action for any infringement with respect to the mask work which is committed after the commencement of protection of the mask work under section 904(a).

(2) In any case in which an application for registration of a claim of protection in a mask work and the required deposit of identifying material and fee have been received in the Copyright Office in proper form and registration of the mask work has been refused, the applicant is entitled to institute a civil action for infringement under this chapter with respect to the mask work if notice of the action, together with a copy of the complaint, is served on the Register of Copyrights, in accordance with the Federal Rules of Civil Procedure. The Register may, at his or her option, become a party to the action with respect to the issue of whether the claim of protection is eligible for registration by entering an appearance within 60 days after such service, but the failure of the Register to become a party to the action shall not deprive the court of jurisdiction to determine that issue.

(c)(1) The Secretary of the Treasury and the United States Postal Service shall separately or jointly issue regulations for the enforcement of the rights set forth in section 905 with respect to importation. These regulations may require, as a condition for the exclusion of articles from the United States, that the person seeking exclusion take any one or more of the following actions:

(A) Obtain a court order enjoining, or an order of the International Trade Commission under section 337 of the Tariff Act of 1930 excluding importation of the articles.

(B) Furnish proof that the mask work involved is protected under this chapter and that the importation of the articles would infringe the rights in the mask work under this chapter.

(C) Post a surety bond for any injury that may result if the detention or exclusion of the articles proves to be unjustified.

(2) Articles imported in violation of the rights set forth in section 905 are subject to seizure and forfeiture in the same manner as property imported in violation of the customs laws. Any such forfeited articles shall be destroyed as directed by the Secretary of the Treasury or the court, as the case may be, except that the articles may be returned to the country of export whenever it is shown to the satisfaction of the Secretary of the Treasury that the importer had no reasonable grounds for believing that his or her acts constituted a violation of the law.

§ 911. Civil actions

(a) Any court having jurisdiction of a civil action arising under this chapter may grant temporary restraining orders, preliminary injunctions and permanent injunctions on such terms as the court may deem reasonable to prevent or restrain infringement of the exclusive rights in a mask work under this chapter.

(b) Upon finding an infringer liable, to a person entitled under section 910(b)(1) to institute a civil action, for an infringement of any exclusive right under this chapter, the court shall award such person actual damages suffered by the person as a result of the infringement. The court shall also award such person the infringer's profits that are attributable to the infringement and are not taken into account in computing the award of actual damages. In establishing the infringer's profits, such person is required to present proof only of the infringer's gross revenue, and the infringer is required to prove his or her deductible expenses and the elements of profit attributable to factors other than the mask work.

(c) At any time before final judgment is rendered, a person entitled to institute a civil action for infringement may elect, instead of actual damages and profits as provided by subsection (b), an award of statutory damages for all infringements involved in the action, with respect to any one mask work for which any one infringer is liable individually, or for which any two or more infringers are liable jointly and severally, in an amount not more than 250,000 as the court considers just.

(d) An action for infringement under this chapter shall be barred unless the action is commenced within three years after the claim accrues.

(e)(1) At any time while an action for infringement of the exclusive rights in a mask work under this chapter is pending, the court may order the impounding, on such terms as it may deem reasonable, of all semiconductor chip products, and any drawings, tapes, masks, or other products by means of which such products may be reproduced, that are claimed to have been made, imported, or used in violation of those exclusive rights. Insofar as practicable, applications for orders under this paragraph shall be heard and determined in the same manner as an application for a temporary restraining order or preliminary injunction.

(2) As part of a final judgment or decree, the court may order the destruction or other disposition of any infringing semiconductor chip products, and any masks, tapes, or other articles by means of which such products may be reproduced.

(f) In any civil action arising under this chapter, the court in its discretion may allow the recovery of full costs, including reasonable attorneys' fees, to the prevailing party.

§ 912. Relation to other laws

(a) Nothing in this chapter shall affect any right or remedy held by any person under chapters 1 through 8 of this title, or under title 35.[3]

(b) Except as provided in section 908(b) of this title, references to "this title" or "title 17" in chapters 1 through 8 of this title shall be deemed not to apply to this chapter.

(c) The provisions of this chapter shall preempt the laws of any State to the extent those laws provide any rights or remedies with respect to a mask work which are equivalent to those rights or remedies provided by this chapter, except that such preemption shall be effective only with respect to actions filed on or after January 1, 1986.

(d) The provisions of sections 1338, 1400(a), and 1498(b) and (c) of title 28[4] shall apply with respect to exclusive rights in mask works under this chapter.

(e) Notwithstanding subsection (c), nothing in this chapter shall detract from any rights of a mask work owner, whether under Federal law (exclusive of this chapter) or under the common law or the statutes of a State, heretofore or hereafter declared or enacted, with respect to any mask work first commercially exploited before July 1, 1983.

[3] Title 35 = Patents *(Editor's note).*

[4] Title 28 = Judiciary and Judicial Procedure *(Editor's note).*

§ 913. Transitional provisions

(a) No application for registration under section 908 may be filed, and no civil action under section 910 or other enforcement proceeding under this chapter may be instituted, until 60 days after the date of the enactment of this chapter.

(b) No monetary relief under section 911 may be granted with respect to any conduct that occurred before the date of the enactment of this chapter, except as provided in subsection (d).

(c) Subject to subsection (a), the provisions of this chapter apply to all mask works that are first commercially exploited or are registered under this chapter, or both, on or after the date of the enactment of this chapter.

(d)(1) Subject to subsection (a), protection is available under this chapter to any mask work that was first commercially exploited on or after July 1, 1983, and before the date of the enactment of this chapter, if a claim of protection in the mask work is registered in the Copyright Office before July 1, 1985, under section 908.

(2) In the case of any mask work described in paragraph (1) that is provided protection under this chapter, infringing semiconductor chip product units manufactured before the date of the enactment of this chapter may, without liability under sections 910 and 911, be imported into or distributed in the United States, or both, until two years after the date of registration of the mask work under section 908, but only if the importer or distributor, as the case may be, first pays or offers to pay the reasonable royalty referred to in section 907(a)(2) to the mask work owner, on all such units imported or distributed, or both, after the date of the enactment of this chapter.

(3) In the event that a person imports or distributes infringing semiconductor chip product units described in paragraph (2) of this subsection without first paying or offering to pay the reasonable royalty specified in such paragraph, or if the person refuses or fails to make such payment, the mask work owner shall be entitled to the relief provided in sections 910 and 911.

§ 914. International transitional provisions

(a) Notwithstanding the conditions set forth in subparagraphs (A) and (C) of section 902(a)(1) with respect to the availability of protection under this chapter to nationals, domiciliaries, and sovereign authorities of a foreign nation, the Secretary of Commerce may upon the petition of any person, or upon the Secretary's own motion, issue an order extending protection under this chapter to such foreign nationals, domiciliaries, and sovereign authorities if the Secretary finds—

(1) that the foreign nation is making good faith efforts and reasonable progress toward—

(A) entering into a treaty described in section 902(a)(1)(A); or

(B) enacting legislation that would be in compliance with subparagraph (A) or (B) of section 902(a)(2); and

(2) that the nationals, domiciliaries, and sovereign authorities of the foreign nation, and persons controlled by them, are not engaged in the misappropriation, or unauthorized distribution or commercial exploitation, of mask works; and

(3) that issuing the order would promote the purposes of this chapter and international comity with respect to the protection of mask works.

(b) While an order under subsection (a) is in effect with respect to a foreign nation, no application for registration of a claim for protection in a mask work under this chapter may be denied solely because the owner of the mask work is a national, domiciliary, or sovereign authority of that foreign nation, or solely because the mask work was first commercially exploited in that foreign nation.

(c) Any order issued by the Secretary of Commerce under subsection (a) shall be effective for such period as the Secretary designates in the order, except that no such order may be effective after the date on which the authority of the Secretary of Commerce terminates under subsection (e). The effective date of any such order shall also be designated in the order. In the case of an order issued upon the petition of a person, such effective date may be no earlier than the date on which the Secretary receives such petition.

(d)(1) Any order issued under this section shall terminate if—

(A) the Secretary of Commerce finds that any of the conditions set forth in paragraphs (1), (2), and (3) of subsection (a) no longer exist; or

(B) mask works of nationals, domiciliaries, and sovereign authorities of that foreign nation or mask works first commercially exploited in that foreign nation become eligible for protection under subparagraph (A) or (C) of section 902(a)(1).

(2) Upon the termination or expiration of an order issued under this section, registrations of claims of protection in mask works made pursuant to that order shall remain valid for the period specified in section 904.

(e) The authority of the Secretary of Commerce under this section shall commence on the date of the enactment of this chapter, and shall terminate three years after such date of enactment.

(f)(1) The Secretary of Commerce shall promptly notify the Register of Copyrights and the Committees on the Judiciary of the Senate and the House of Representatives of the issuance or termination of any order under this section, together with a statement of the reasons for such action. The Secretary shall also publish such notification and statement of reasons in the Federal Register.

(2) Two years after the date of the enactment of this chapter, the Secretary of Commerce, in consultation with the Register of Copyrights, shall transmit to the Committees on the Judiciary of the Senate and the House of Representatives a report on the actions taken under this section and on the current status of international recognition of mask work protection. The report shall include such recommendations for modifications of the protection accorded under this chapter to mask works owned by nationals, domiciliaries, or sovereign authorities of foreign nations as the Secretary, in consultation with the Register of Copyrights, considers would promote the purposes of this chapter and international comity with respect to mask work protection.

Technical Amendment

Sec. 303. The table of chapters at the beginning of title 17, United States Code, is amended by adding at the end thereof the following new item:

9. Protection of semiconductor chip products .... 901.

Authorization of Appropriations

Sec. 304. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title and the amendments made by this title.

General Studies

Authorship in the Information Age

Protection for Computer Programs Under the Berne and Universal Copyright Conventions

Michael S. KEPLINGER*

Providing the appropriate legal protection for computer software is one of the most important questions facing domestic and international intellectual property law policy makers in our modern information age.[1] There is no question that the computer software industry is international in its scope and growing at a phenomenal rate.[2] Also, there is no question that computer software is deserving of legal protection just as are other works of human creativity.[3] The only question with respect to the legal protection of computer software has been how should that protection be provided.[4]

Before turning to the legal issues of computer software protection it is essential to understand what computer software is, how it is created and how it is distributed in domestic and international commerce. We also must understand how computer hardware development has progressed, particularly the so–called micro or personal computers based on advances in semiconductor chip technology.[5]

Computer Hardware Development

The electronic, stored–program, digital computer is a relatively new development.[6] It is true that the eminent British mathematician Charles Babbage conceived of a mechanical "analytical engine" in the 1800's, but this was a purely mechanical device that depended on the interaction of an enormously complex system of precision gears, cams and levers to carry out computations in ways similar to mechanical adding machines. The concept of a stored "program" to control the sequence of the machines operation also traces its ancestry to Babbage and the world's first programmer, Lady Lovelace, the daughter of George Gordon Lord Byron. The problem with Babbage's machine and Lady Lovelace's programs was that their conceptual brilliance far exceeded the engineering capabilities of their times, and perhaps went beyond the limits of mechanical engineering precision. Despite extensive funding by the British government, repeated attempts to build the analytical engine failed.[7]

Scientists and engineers continued to hold as a dream the idea of an automatic mechanical computation device, but the real development of such a device was to await the emergence of modern electronics. In the United States, in order to cope with the collation of the data from the decennial census mandated by the U.S. Constitution, Herman Hollerith devised a series of electro–mechanical devices designed to process information encoded by punch-

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[1] This was recognized as long ago as 1975 by Mooers, "Computer Software and Copyright," 7 *Computing Surveys*, 1975, p. 45; see Brown, "The Joys of Copyright," 28 *Bull. Cop. Sec.*, 1981, p. 477.

[2] U.S. Department of Commerce, International Trade Administration, Office of Computers and Business Equipment, *A Competitive Assessment of the United States Software Industry*, (November 1984) hereinafter cited as *Software Industry*.

[3] Stewart, "International Copyright in the 80's," 28 *Bull. Cop. Sec.* 1981, p. 351; National Commission on New Technological Uses of Copyrighted Works, *Final Report* (1978) hereinafter cited as *CONTU Final Report*.

[4] See, the survey of proposal for protection in Kinderman, "Special Protection Systems for Computer Programs — A Comparative Study," 7 IIC 1976, p. 302; and Boytha, "Protection of the Interests Related to the Creation and Use of Computer Programs," 21 *Acta Juridica Academiae Scientarium Hungarica*, 1978, p. 337. See also studies cited at note 22 *infra*.

[5] This article does not deal with the entirely separate topic of the protection of the mask works or designs embodied in semiconductor chips. The masks works used in the production of semiconductor chips have been recently protected by a new *sui generis* law in the United States. See 17 U.S.C., paragraphs 901 *et seq.*, P.L. 98–620 (November 8, 1984).

[6] Data, information or program instructions are all stored in a computer in a coded form represented by the presence or absence of an electrical or magnetic charge at particular points in the computer's memory. The presence or absence of these charges, commonly called bits, are conventionally represented using binary or "base two" numbers, 0's and 1's. These numbers may be converted to other bases for convenience in printing a representation of the memory content of the computer. Today such notation typically takes the form of hexadecimal or "base 16" numbers, the digits 0–9 and the letters A–F are used to represent these numbers.

[7] Babbage, *Of the Analytical Engine*, in Pylyshyn (ed.) "Perspectives on the Computer Revelation" (1970); Diebold, *The World of the Computer* (1973).

ing small holes in rectangular cardboard cards. The use of these devices became widespread in government, businesses and industry, so that by the 1950's these so–called electronic accounting machines were in common use in most countries of the world.[8]

In the 1930's and 1940's primitive electrical or electro–mechanical computers, typically based on relays, were developed, but they were largely laboratory novelties, unpredictable and unreliable. The early ancestors of modern computers built in the United States and Europe in the 1950's relied on vacuum tubes and were finally purely electronic devices. By modern standards they were slow and unrealiable, often capable of running only a few minutes or at best hours before one of the thousands of tubes failed, causing the computer to cease operating. The development of solid state electronics — the transistor — brought about real improvements in reliability. The meantime between failures increased from minutes to hours and practical application of these machines became possible. Further advances in technology were to enable even more dramatic improvements in computer performance.[9]

Integrated circuits, the ancestors of the modern semiconductor or integrated circuit chips, were developed permitting hundreds of transistors to be packaged together as one small electronic component. This decreased the size of the machines and greatly increased their efficiency, speed of computation and reliability. This technology today has progressed to the state where hundreds of thousands of circuit elements can be combined in a single chip and mass produced efficiently. These chips are the heart of the modern computer revolution.[10]

These chips, marvels of modern technology, would be of little use without a means to harness their computational power to permit them to be used to enhance human creativity. Computer software provides that means.

Computer Software Development

The earliest computers followed functions that were wired into their circuitry. The limitations of hard–wired circuitry are readily apparent; instructions once built into the computer were there forever. Hard–wired instructions built into the computer gave way to removable "plug boards" borrowed from the electronic accounting machines previously mentioned. In a sense these plug boards "stored" programs in their circuitry. Later, as more sophisticated memory devices were devised, it became possible to enter the instruction by an external means such as a keyboard or punched paper tape. Also, the earlier developed hole punched cards became one of the primary means for entry of programs and data.[11]

At the same time, users of computers as well as computer designers recognized that, before the potential of these devices could be realized, better ways would have to be developed to express programs in a more easily human comprehensible form than the strings of digits — ones and zeros — that corresponded to the memory locations of the machines. The earliest of the new computer languages that were developed to facilitate the expression of programs were known as assembly languages. These low–level languages closely parallel the operations of the computer and provide an easier way to represent basic machine operations. Assembly language programs are converted into the binary code of the computer by special programs known as assemblers. Typically, an assembly language instruction comprises a mnemonic to encode the computer operation followed by numbers that represent either actual data or a memory location in the computer where data is, or is to be, stored. Programs written in assembly languages are unique to each computer type, or at best to each family of computers, are generally difficult to understand and require extensive training to be used effectively. These languages were a step in the right direction but they did not go far enough.[12]

Farsighted computer scientists perceived the need to develop languages that would be easier to use, more like natural human languages, and usable on many, or perhaps even all, computers. Early high–level languages like Fortran for *For*mula *Tran*slation, COBOL for *C*ommon *B*usiness *O*riented *L*anguage, and Algol for *Alg*orithmic *L*anguage attempted to reach this goal. Special rules of grammar and syntax similar to the rules for ordinary human languages govern the use of these lan-

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[8] Anderson, *Management Controls for Effective and Profitable Use of EDP Resources*, 66 Proc. Asoc. Comp. Machines 201 (1966).

[9] Wyle, *Some Relationships Between Failure Detection Probability and Computer System Reliability*, Fall Joint Computer Conference (1967), p. 145; Martin, *Electronic Data Processing* (1966).

[10] Oxman, "Intellectual Property Protection of Integrated Circuit Masks," 21 *Jurimetrics* J. 405 (1980).

[11] Punch cards, once the common medium for computer program fixation have given way to magnetic tape cassettes, floppy disks, and read only memory chips (Roms) as the primary media of program storage. For a discussion of early computer systems design, see, Phister, *Logical Design of Digital Computers* (1958).

[12] Perlis, *Programming of Digital Computers*, 64 Communications of the ACM 181 (1964); Argawala & Rauscher, *Fundamentals of Microprogramming: Architecture, Software and Applications* (1976); Wexelblat, *History of Programming Languages; Proceedings of the ACM SIGPLAN Conference* (1978).

guages.[13] Other special computer programs known as compilers convert programs written in these languages into machine–level languages.

Many programming languages are the subject of national and international standards so that, in principle, a program written in a standardized language such as ISO (International Standard Organization) Fortran can be used in any computer having a suitable compiler.[14] Development of these languages continues today with increasing attempts being made to develop programming languages more like natural languages.[15] Progress in devising more sophisticated languages continues, but use of these programming languages effectively and concisely to express the programmer's thoughts remains largely an art rather than an exact science.[16]

These various types of programming languages are employed to create the many programs needed to enable people effectively to use computers as aids to enhance their creativity and extend their mental capabilities. These programs are of several generic types. At the most basic level, operating system programs embody instructions that direct the internal operation of the computer itself and enable the computer to control its attached peripheral devices. At an intermediate level, operating systems also include such works as compliers, sorting programs, special mathematical packages, communication interfaces, and the like. And at the level most removed from the direct operation of the computer are application programs. These include such diverse applications as information retrieval, word processing, videogames, payroll, computer–aided–design, graphics and an almost uncountable variety of other programs limited only by human ingenuity in devising new uses for computers.[17]

Programs may be created and made available by computer hardware suppliers, computer service organizations, software houses, or the users of the machines themselves. The growth in this market is phenomenal. It has been projected that the world-wide market for computer software will grow to US 55 billion by 1987.[18]

In the United States, and in most nations of the world, software is distributed in a variety of ways. Software for large–scale computers typically is made available via a contractual license or lease arrangement, but, with the emergence of the personal computer, a wide range of software products are now sold in computer stores, book stores and department stores just as are books, records and tapes.[19] The legal means used to regulate the relations between buyers and sellers of these products varies as well. Software for large–scale systems generally is protected through trade secret, lease or license contracts, or similar arrangements, while mass market software suppliers rely on copyright as the preferred mode of protection.[20]

Software Defined

Computer software is an imprecise term that is typically used to describe a group of related intellectual properties. This imprecision has been a major source of confusion and has led to much of the inconclusive legal discussion regarding how best to protect this complex product of human creativity. However, during the course of development of the WIPO Draft Model Provisions on the Protection of Computer Software, the experts made a conceptual breakthrough.[21] They recognized that the idea, process, system or algorithm upon which software is based is a separable component of the bundle of properties.[22] Fundamentally, in addition to the idea upon which the program is based, computer software was defined as comprising:

(1) the computer program,
(2) a program description, and
(3) supporting material.[23]

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[13] For a description of the similarities between computer programming language grammar and syntax, and natural language expression, see, Abbott, *Program Design by Informal English Descriptions*, 26 Comm. ACM 882 (1983).

[14] See, e.g., *International Standards Organization, Programming Language COBOL ISO–1989* (1978), which sets forth the grammatical rules for this popular business–oriented language.

[15] Schmidt, "Legal Proprietary Interests in Computer Programs: The American Experience," 21 *Jurimetrics* J. 345 (1981).

[16] In Brooks, *The Mythical Man–Momth, Essays, on Software Engineering* (1975), programming is described as providing its author with "joys of the craft" and the pleasures of verbal "craftmanship"; see, also, Neumann, "Psychoscial Implications of Computer Software Development; Zen and the Art of Computing," in *Theory and Practice of Software Technology* (1983).

[17] See, the advertising in any current popular computing magazine, *Byte* or *Creative Computing*, to name but two, for the variety and diversity of computer programs offered for every conceivable field of business and personal use.

[18] *Software Industry, supra*, note 2, chart 12, section IV.

[19] Programs are now being distributed by conventional publishers as well as more traditional computer software houses. For example, Mc Graw Hill and Time–Life are extensively involved in electronic publishing and software distribution.

[20] Gilburne, "The Proprietary Rights Pyramid: An Integrated Approach to Copyright and Trade Secret Protection for Software," 1 *The Computer Lawyer* 1 (March 1984).

[21] *World Intellectual Property Organization, Model Provisions on the Protection of Computer Software* (1978), hereinafter cited as *WIPO Model Provisions*.

[22] This important conclusion has been echoed by other studies that have considered the protection of computer software. See, e.g., *Copyright and Designs Law: Report of the Committee to Consider the Law on Copyright and Designs*, H.M.S.O. (1976); *CONTU Final Report, supra*, note 3; Japan Software Industry Association, *Report on Japanese Legal Protection of Software* (1983).

[23] *WIPO Model Provisions, supra*, note 21, p. 9.

Dealing individually with the separate components of computer software makes understanding the legal protection issues manageable. By focusing on the distinctly different works that comprise computer software, one can see that each represents a kind of intellectual property that is well understood, both in terms of the nature of human creativity embodied in the work, and the system of laws that has been developed to protect that property.[24]

The importance of this conceptual approach, which puts computer software into its proper perspective, cannot be overestimated. It is easy to consider computer software in the abstract and casually decide that it is so different from other products of human creativity that it deserves, or even requires, a unique form of legal protection.[25] That simplistic approach ignores the true nature of computer software and threatens our universally accepted system of intellectual property laws that appropriately recognizes the importance of learning, science, technology and other aspects of human creativity.

The creativity in computer software resides in two principal areas: devising the new and sometimes novel processes as ideas upon which programs are based, and, realizing these ideas in the form of programs, program descriptions and other supporting materials. The first sort of creativity arises from careful study and analysis of a problem, then devising a procedure for solving that problem. This is true whether the problem is how to balance a check book, solve a chemical equation, play a videogame, perform word–processing operations or control the internal operations of a computer. The second kind of creativity resides more in descriptive skills, how to explain or set out the problem solution in such an unambiguous and precise way that even the ultimate idiot savant, the computer, can "understand" it.[26] When a programmer creates software, these steps must be followed.

The creative skills involved in these steps are distinctly different and, just as they differ, so do the kinds of legal regimes appropriate to their protection.[27] Processes or methods of problem solution in the abstract or embodied in machines or explained in books may be protected by patents. The explanation of those problems is protected by copyright. When Robert Noyce invented the planar transistor, the device which made the semiconductor chip possible, his invention was protected by the patent law but his papers in scholarly journals that explained how transistors worked were protected by copyright.

Processes or methods of problem solution that have been reduced to practice can be protected under the patent law if they involve statutory subject matter and meet the patent law's requirements of novelty and non–obviousness. Of course, patent protection will not be afforded to the underlying principles of operation of all programs because some will not qualify as inventions and some may be purely mathematical algorithms.[28] But insofar as the patent law protects processes, protection will be available. Recent cases have articulated how the United States patent law applies to inventions that involve computer programs.

The real challenge to intellectual property law posed by computer software was answered during WIPO's earlier work on the legal protection of computer software. At first, the experts looked toward the patent law for the means of protection for software, but, as understanding of the true nature of software grew, they concluded that the components of computer software could fit within existing categories of intellectual property laws.[29] This paper will present a brief discussion of how intellectual property laws protect the ideas upon which programs are based, the supporting materials and program documentation, but its principal focus will be on the protection of computer programs under copyright.

Patent Protection

In *Parker* v. *Flook*[30] the Supreme Court was presented with the issue of whether so–called "post–so-

[24] *Ibid., supra*, note 21, p. 22.

[25] See, the Report of the Japanese Ministry of International Trade and Industry (MITI), *Proposal With Respect to Rearrangement of the Foundation for Software — Aiming at Secure Legal Protection for Software*, (1983), which proposes to withdraw copyright protection from programs in Japan and substitute a *sui generis* form of protection based on patent law principles; the Report of the French Ministry of Industry and Research, "Toward the Protection of Computer Software: Present Situation and Proposals," in *Industrial Property*, 1984, p. 348, that proposes a new form of protection which would coexist with patent and copyright protection; and the Canadian "White Paper" *From Gutenberg to Telidon* (1984), which would provide full copyright protection for computer programs in human–readable form but only five years of protection for programs in their machine–readable form. All these proposals would seem to introduce unnecessary complexity into the legal protection of computer programs through the widely accepted, simple and elegant copyright approach.

[26] To say that a computer understands anything is a misstatement. Computers only process information without understanding it. They are passive mechanical devices animated only by the relation between man and computer, see, Weizenbaum, *Computer Power and Human Reason* (1977).

[27] Keplinger, *Computer Software: Its Nature and Its Protection*, 30 Emory L.J. 483 (1981).

[28] See, e.g., U.S. Patent and Trademark Office, *Manual of Patent Examining Procedure*, paragraph 2110, p. 2100–2 (1983).

[29] *WIPO Model Provisions, supra*, note 21, p. 22.

[30] 437 U.S. 584 (1978).

lution activity" could be considered the basis for the grant of a patent. Post–solution activity refers to operations performed on data after output data has been calculated using a non–patentable mathematical algorithm. The *Flook* case involved the use of a computer program for updating "alarm limits" in a chemical process involving the catalytic conversion of hydrocarbons. The method of calculating the alarm limits involved three steps: measuring the variables in the chemical process — heat, pressure and flow rates — applying an algorithm to calculate an alarm limit value and performing the adjustments needed to set the actual alarm limit. The Court found that the only novelty — the prime requisite for patent protection — resided in the algorithm and that the post–solution activity, lacking novelty, was insufficient to support a patent.[31] The *Flook* Court reasoned:

> It is absolutely clear that respondent's application contains no claim of patentable invention. The chemical processes involved in catalytic conversion of hydrocarbons are well known, as are the practice of monitoring the chemical process variable, the use of alarm limits to trigger alarms, the notion that alarm limit values must be recomputed and readjusted, and the use of computers for "automatic monitoring–alarming." Respondent's application simply provides a new and presumable better method for calculating alarm limit values ... Respondent's claim is, in effect, comparable to a claim that the formula 2 r can be usefully applied in determining the circumference of a wheel. As the Court of Customs and Patent Appeals has explained, "if a claim is directed essentially to a method of calculating, using a mathematical formula, even if the solution is for a specific purpose, the claimed method is non–statutory."[32]

Process patents are not, however, unavailable for all inventions which may be implemented in whole or in part by computer programs. Patent protection may be available. *Diamond* v. *Diehr* did not concern directly the patentability of a computer program.[33] In *Diehr*, the respondents sought patent protection for a process for curing synthetic rubber. The process included several steps: "installing rubber in a press, closing the mold, constantly determining the temperature of the mold, constantly recalculating the appropriate cure time through the use of the formula and a digital computer, and automatically opening the press at the proper time."[34] According to Justice Rehnquist, the respondent's claim differed from the claim presented in *Flook.*

> In contrast [to *Parker*], the respondents here do not seek to patent a mathematical formula. Instead, they seek patent protection for a process of curing synthetic rubber. Their process admittedly employs a well–known mathematical equation, but they do not seek to preempt the use of that equation. Rather they seek only to foreclose from others the use of that equation in conjuction with all of the other steps in their claimed process.[35]

The *Diehr* Court further explained that purely mathematical processes or algorithms alone were not the proper subject of patent protection:

> A mathematical formula as such is not accorded the protection of our patent laws, ... and this principle cannot be circumvented by attempting to limit the uses of the formula to a particular technological environment... Similarly, insignificant post–solution activity will not transform an unpatentable principle into a patentable process ... To hold otherwise would allow a competent draftsman to evade the recognized limitations on the type of subject matter eligible for patent protection.[36]

The Court distinguished the claim before it, however, as not presenting an attempt to protect a mathematical process but as a claim for the exclusive patent on an industrial process for the molding of rubber products. According to the Court:

> When a claim containing a mathematical formula implements or applies that formula in a structure or process which, when considered as a whole, is performing a function which the patent laws were designed to protect (e.g. transforming or reducing an article to a different state or thing), then the claim satisfied the requirements of [35 U.S.C.] paragraph 101.[37]

The *Diehr* decision makes it clear that the protection of patent law is available to the processes which underlie computer programs, provided the process is something more than a mere algorithm.

Trade Secret Law

Computer programs have been recognized widely in the United States as works eligible for protection as trade secrets. A trade secret has been defined as "any formula, pattern, device, or compilation of information which is used in one's business and which gives him an opportunity to obtain an advantage over competitors who do not know or use it."[38] Contracts in the form of leases or licenses of trade secrets are commonly employed by the producers of commercially oriented computer software packages.

There are important limitations on the use of trade secrecy as a means of protection in spite of its widespread acceptance. First and foremost, the information which is sought to be protected indeed must be secret and certain factors must be evaluated in reaching this conclusion.[39] These factors include:

(1) the extent to which the information is known to others than the proprietor;

[31] *Ibid.*, 585.
[32] *Ibid.*, 594–595 (footnotes omitted).
[33] 450 U.S. 175 (1981).
[34] *Ibid.*

[35] *Ibid.*
[36] *Ibid.*, 1058–1059 (footnotes and citations omitted).
[37] *Ibid.*
[38] Restatement of Torts paragraph 757, Comment b (1939).
[39] See, generally, Milgrim, *Trade Secrets* (1967).

(2) the extent to which measures are taken to safeguard the secret;
(3) the amount of effort expended in developing the information; and
(4) the ease with which the information may be discovered by others.[40]

The factors listed above illustrate the strengths and weaknesses of trade secret protection. As long as the secret is maintained, the protection is effective; but once the secret is disclosed, or if an examination of the product which embodied it allows a purchaser of the product to discover the secret, the information can no longer be protected as a trade secret. Furthermore, there is generally no protection against third parties who may acquire the secret in good faith. In some instances, however, criminal sanctions may be available under various state laws regarding theft of trade secrets.[41]

Protection of the Programs

Copyright protects mankind's noblest intellectual creations — great literature, scientific treatises, serious music, works of art and sculpture — works that enrich our lives and our cultural experiences.[42] Copyright also protects the banal and pedestrian works that we see everyday — telephone directories, catalogs, advertisements, comic strips and pop music — works that often have great commercial or utilitarian value but, at best, only fleeting cultural merit.[43] The common factor that links all of these works is the authorship involved in their creation. They are all works of authorship, protected regardless of their esthetic merit.[44]

The term "works of authorship" is broad in its meaning but not limitless.[45] *Belles lettres* works of great creativity and insight represent one dimension of authorship.[46] Factual works, directives, scientific charts and tables, on the other hand, represent the "plain hard work" dimension of authorship.[47] It is fair to question where computer programs lie in this spectrum of authorship.

Many fora — national courts and legislatures as well as international organizations — have addressed the question of exactly how computer programs fit into the categories of authorship.[48] While there is no crystal clear answer, there is a consensus among "civilized countries" that recognizes software as a kind of literary or scientific work as those terms are used in copyright law.[49]

Decisions finding that computer programs are protected by copyright are supported by the facts of program creation. Programs are created by the same broad spectrum of persons, both real and legal, that create other works. Individuals write novels, they also write computer programs. Two or more professors at a university together may write a textbook; they may also have written the computer programs used to collect the data necessary for their research.

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[40] Restatement of Torts paragraph 757 (1939).

[41] See, e.g., *Hancock* v. *Decker*, 379 F. 2d. 552 (5th Cir. 1967), defendant criminally convicted under Texas law for theft of 59 computer programs.

[42] *CONTU Final Report*, *supra*, note 3, p. 26.

[43] *Bleistein* v. *Donaldson Lithographing Co.*, 188 U.S. 139 (1903).

[44] Latman, *The Copyright Law*, 1979, p. 24.

[45] Koepple, *Copyright Protection Throughout the World*, 1936.

[46] *Nimmer on Copyright*, paragraphs 204–208 (1984).

[47] *Ibid.*, paragraph 2.18 (1984).

[48] See, *supra*, note 4.

[49] Legislation that specifically recognizes computer software as a literary work within the scope of copyright has been enacted in the United States, P.L. 96–517; Australia, Copyright Amendment Act, 1984; Hungary, Decree No. 15, Minister of Culture; and the Philippines, Presidential Decree No. 29 (December 6, 1972). The Upper House of the Indian Parliament has also sent to the Lower House the Copyright Amendment Bill, 1984, that would include computer programs in the Indian Copyright Law as literary works. The copyright law has been applied to the protection of computer programs by the courts in Australia, *Apple Computer, Inc.* v. *Computer Edge Pty, Ltd.*, No. G405 of 1983 (May 29, 1984); Canada, *International Business Machines, Corp.* v. *Ordinateurs Spirales*, No. T–904–84 (June 26, 1984); France, *Babolat–Maillot–Witt* v. *Pachot*, Paris Court of Appeals (November 2, 1982), 2nd *Apple Computer, Inc.* v. *SEGIMEX S.A.R.L.*, Paris Trial Court (September 21, 1983), but cf. the *Jeutel* case, Paris Court of Criminal Appeals (June 4, 1984); Federal Republic of Germany, *Visicorp* v. *Basis Software GmbH et. al.*, 14 ITC 437 (1983), Munich District Court, and *Sudwestdeutsche Inkasso KG* v. *Bappert & Burker Computer GmbH*, Higher District Court of Karlsruhe, 1983 GRUR 300 (February 9, 1983); Hong Kong, *Atari Inc.* v. *Video Technology Ltd.*, Civ. App. No. 117 (1982) and *Atari Inc.* v. *Soundic Electronics* Civ. App. No. 118 (1982); Hungary, Judgments of the Budapest Municipal Court, No. 25.P. 27228/1972, No. 2.P. 26.859 (1980) 40, and No. 2.P. 24.506 (1981) 18; Italy, *Atari, Inc. & Bertolino* v. *Sidam Srl.*, Tribunal of Turin (July 14, 1983); Japan, *Taito Co., Ltd.* v. *I.N.G. Enterprises Co., Ltd.*, Tokyo District Court, No. 54 (1977)–10867 (December 6, 1982), *K.K. Taito* v. *Makoto Deushikogyo K.K.*, Yokohama District Court, No. 54 (1979)–1489, and *Konami Kogo K.K.* v. *K.K. Daiwa*, Osaka District Court, (January 26, 1984), *Patents and Licensing*, p. 30, April 1984; The Netherlands, "Logboek" Program, District Court of Hertogenbosch, (14 May 1982), 1983 GRUR Int. 669; South Africa, *Northern Office Computers (Pty) Ltd.* v. *Rosenstein*, 1981 (4) SA 123(c) 14 IIC 560 (1981); United Kingdom, *Gates* v. *Swift*, [1982] RC 339, *Sega Enterprises, Ltd.* v. *Alca Electronics*, [1982] FSR 516, *Sega Enterprises* v. *Richards*, (1983) FSR 73, *Systemation Ltd.* v. *London Computer Centre Ltd.*, [1983] FSR 313, and *Thrustcode Ltd.* v. *W.W. Computing Ltd.*, [1983] FSR 502; and United States of America, *Apple Computer, Inc.* v. *Formula International, Inc.* 725 F. 2d. 621, 221 USPQ 762 (9th Cir. 1984), *Williams Electronics* v. *Artic International, Inc.* 685 F. 2d 870 (3rd Cir. 1982), *Apple Computer, Inc.* v. *Franklin Computer Corp.*, 714 F. 2d. 219, USPQ 1240 (3rd Cir. 1983). See WIPO, *Summary of the Replies Received From Governments and International Organizations to WIPO's Invitation to Present Observations Concerning the Legal Protection of Computer Software*, (September 25, 1984) LPCS/II/INF/1.

Employees of businesses both large and small create copyrighted works varying from magazines to motion pictures; if they work for an independent software firm or a computer system manufacturer, they also may create computer programs. The way in which the programs are written will depend on the resources available to their authors. They may be handwritten and later transcribed onto punch cards or some magnetic media for later loading into a computer, or they may be entered directly into the RAM (random access memory) or a personal computer. The programs may be well thought out in advance or they may be rather spontaneous in nature.

The steps employed by a programmer in creating a program seem rather like the steps followed by one who would write a book. The following steps compare in parallel the processes of creation of a book and the creation of a computer program.

Book	*Program*
— idea for the plot	— process to be described
— develop the plot in an outline	— chart out the process
— write out the outline	— write out the program steps
— edit	— edit
— read and critique	— test run
— revise and edit	— debug
— complete	— complete

The steps are quite similar and may even be closer than this casual list make them appear even though the language used to describe the steps differs. The essence of the creative process is that at each step a human being must exercise his or her own judgment to pick and choose and to select from among the many ways in which to use words to express the desired ideas. That is true in both cases. Programmers use terms like, elegant, concise, straight forward and the like to describe their programs. Books have been written on programming style.[50] In fact, a recent article in a popular United States computer magazine was called "Programs as Essays, or What System Development Teams Can Learn From Shelley and Thoreau."[51]

The process is the same whether the works created are the operating system programs that are intimately involved in controlling the computer system or whether they are the applications programs that direct the computer to carry out useful, entertaining, or communicative tasks.[52] Programs of all types comprise written instructions, carefully selected, artfully composed, arranged in a sequence to their author's choice (within limits of the grammar and syntax of the chosen programming language), and fixed in some tangible medium of expression.[53] Just as is the case with any other work, computer programs may be the result of great insight and creativity or they may be the result of plain hard work.[54] In this respect, they are no different from other works of authorship.[55]

Extent of Protection

The protection afforded by copyright is particularly appropriate to computer software. This is true because the extent of protection provided by copyright is limited to the expression rather than the ideas which are conveyed by the expression.[56] In the case of literary or scientific works, both of which are protected by the copyright laws of "civilized countries," writings are protected but the ideas, stories, plots and facts *per se* are not protected.[57] In computer software, the processes or algorithms that un-

[50] Van Tassel, *Program Style, Design, Efficiency, Debugging, and Testing*, (1974).

[51] Schneider, *Programs as Essays: What System Development Teams Can Learn From Shelley and Thoreau*, 30 Datamation 162 (May 15, 1984), "If Shelley is right about knowing the territory, programming should disappear as an isolated discipline, and take its place as an adjunct to the studies of any educated man or woman, like math, English composition, and foreign languages."

[52] Weinberg, *The Psychology of Computer Programming* (1971).

[53] *Visicorp* v. *Basis Software GmbH et al.*, 14 IIC 437 (1983), *Taito Co., Ltd.* v. *I.N.G. Enterprises Co., Ltd.* Tokyo District Court, No. 54 (1970)-10867, (December 6, 1982).

[54] *Sudwestdeutsche Inkasso KG* v. *Bappert & Burker Computer GmbH*, 1 (1983), for papers discussing the relationship of the various modes of protection and their importance in marketing.

[55] In *Apple Computer Inc.* v. *SEGIMEX S.A.R.L.* (September 21, 1983), the Paris Trial Court found that "computer programs are not immediately perceptible by the senses of everyone, as literary or plastic works are, they are, nevertheless, accessible and understandable on various media, such as 'listings,' screens or magnetic recordings; if, obviously, their reading is not in the range of everybody and requires a certain degree of technicality, this single peculiarity does not result in their being excluded from the category of intellectual works, nor are excluded, for example, musical compositions, which are also expressed in a coded and complex language, the immediate understanding of which requires a specialized education; besides, computer programs become intelligible through their interpretation by an instrument, the computer, which reveals their capacity to the layman, just like the voice or any musical instrument reveals the contents of a musical work." (*Slip opinion* p. 61).

[56] This fundamental principle of copyright is universally acknowledged, World Intellectual Property Organization, *Guide to the Berne Convention* (1978), p. 12.

[57] This principle is specifically embodied in many national copyright laws. In the United States, 17 U.S.C. paragraph 102(b) provides that "[I]n no case does copyright protection for an original work of authorship extend to any idea, procedure, process, system, method of operation, concept, principle or discovery, regardless of the form in which it is described, explained, illustrated, or embodied in such works."

derlie the programs are free for others to use.[58] This fundamental and at times difficult to understand concept is the reason why the copyright law meets the needs of both program producers and users.[59]

The United States has the world's largest and most vigorous computer software marketplace.[60] Participants in that market compete to produce new and innovative software products for both the custom and the packaged software market. They have available to them the entire range of legal protection: copyrights, patents, contracts and trade secrets.[61] In the market for custom produced software and software for large-scale machines, many producers and users rely on contractual protection that provides for licenses to use the trade secrets embodied in the software, but increasingly many are adopting approaches that rely on licensing the copyright in the software.[62] In the increasingly important personal computer market, copyright is the preferred method of protection.[63]

The extensive use of copyright has had a positive influence on the market and appears to have had very pro-competitive effects, as the Court noted in the *Apple* v. *Formula* case,

> There are a large number of competing program products available for any imagineable application, and as well for virtually any computer. As soon as a new program appears there is a rush of other programs that claim to do the same job or the same job better. Sometimes these programs are thinly disguised copies of the first program but often they are new programs developed by competitors from studying the programs and engaging in fair "reverse engineering" to extract the unprotected idea and produce new programs.[64]

In the words of the CONTU Report, "one is always free to make the machine do the same thing as it would if it had the copyrighted work placed in it, but only by one's own creative effort rather than piracy."[65]

Copyright is an effective and practical form of protection for computer programs. It permits and even encourages access to the underlying technology. Most importantly, the process of program authorship is philosophically compatible with copyright. The courts in the United Sates have found that public policy and the Constitution support the conclusion that copyright is an entirely appropriate form of protection for software.[66] Indeed, this conclusion seems to be shared by courts in other countries where this question has been addressed.[67]

Computer Programs and the International Copyright Conventions

The Berne Convention for the Protection of Literary and Artistic Works and the Universal Copyright Convention (UCC) have as their keystone the protection of authors' rights.[68] Article 1 of the Berne Convention established a Union for the protection of the rights of authors in their literary and artistic works,[69] and Article I of the UCC obligates member States to "provide for the adequate and effective protection of the rights of authors and other copyright proprietors in literary, scientific and artistic works".[70]

The subject matter of the protection under the two Conventions here relevant is, of course, what is the meaning of literary and scientific works and do those definitions comprise computer programs. With respect to the Universal Copyright Convention, Article I illustrates the scope of protected works by listing works as "including writings, musical, dramatic and cinematographic works, and paintings, engravings and sculpture."[71] Article 2 of

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[58] *Thrustcode Ltd.* v. *W.W. Computing Ltd.*, (1983) FSR 502; *Apple Computer, Inc.* v. *Franklin Computer Corp.*, 714 F. 2d. 1240, 219 USPQ 113 (3rd Cir. 1983); and *Hubco Data Products Corp.* v. *Management Assistance, Inc.*, 219 USPQ 450 (D. Idaho 1983).

[59] Saltman, *Copyright in Computer-Readable Works: Policy Impacts of Technological Change* (1977).

[60] *Software Industry, supra*, note 2.

[61] Davidson, "Protecting Computer Software: A Comprehensive Analysis," 23 *Jurimetrics* J. 337 (1983).

[62] See, for example, Miller, *Software Protection: The U.S. Copyright Office Speaks on the Computer/Copyright Interface* (1983), for papers discussing the relationship of the various modes of protection and their importance in marketing.

[63] See, *supra*, most cases cited in note 49 involve micro-computer software.

[64] *Apple Computer, Inc.* v. *Formula International Inc.*, 725 F. 2d. 621, 219 USPQ 113 (9th Cir. 1984).

[65] *CONTU Final Report, supra*, note 3, p. 21.

[66] This has been held to be true with respect to both operating system and applications programs. As the court explained in *Apple* v. *Franklin*, "Franklin's attack on operating system programs ... seems inconsistent with its concession that application programs are an appropriate subject of copyright. Both types of programs instruct the computer to do something. Therefore, it should make no difference for purposes of section 102(b) whether these instructions tell the computer to help prepare an income tax return (the task of an application program) or to translate a high-level language program from source code into its binary language object code form (the task of an operating system program such an 'Applesoft'...)" 714 F. 2d. 1251. Of critical importance to the court was "the statutory definition of a computer program as a set of instructions to be used in a computer in order to bring about a certain result... [which] makes no distinction between application programs and operating programs." 714 F. 2d. 1252.

[67] See, *supra*, cases cited at note 49.

[68] Ladas, *The International Protection of Literary and Artistic Property* (1938), p. 184.

[69] Berne Convention for the Protection of Literary and Artistic Works (Paris Act, 1971), Article 1.

[70] Universal Copyright Convention (Paris Act, 1971), Article I.

[71] It has been suggested that the listing of works in Article I limits the scope of the Universal Copyright Convention to those works enumerated but the better view appears to be that the subject matter should be interpreted broadly to keep pace with technological change, Steup, "The Rule of National Treatment for Foreigners and its Application to New Benefits for Authors," 25 *Bull. Cop. Soc.* 279 (1973).

the Berne Convention provides that "The expression "literary and artistic works" shall include every production in the literary, scientific and artistic domain, whatever may be the mode or form of its expression".[72]

These two standards are similar but not identical. In Article I of the UCC, the use of the illustrative term "writings" is particularly important. The 1952 Diplomatic Conference that prepared the UCC concluded that "writing" refers to a broad spectrum of human expression in the form of language, whether linguistic signs or symbols so as to make them capable of comprehension. Physical form, contents, genre, or exterior form all are irrelevant.[73] With respect to Article 2 of the Berne Convention, the principle of universal coverage is even more directly applied. Going back to the original 1886 text of Berne, and event to earlier drafts, the subject matter of the Convention has always been specified as including "any production whatever of the domain of literature, sciences, or art, which can be made public by any mode of impression or reproduction whatever."[74] Thus, by the specific language of the Berne Convention and by the interpretation of the term "writings" in the Diplomatic Conference of the UCC, it is clear that the international copyright conventions are not treaties to protect only specified forms of expression.[75] If that were the intent, they would rapidly become obsolete as forms of expression and means of dissemination evolve and change with the inevitable progress of science and technology.[76] Clearly the Conventions have contemplated dealing with technological change. The Berne Convention has assimilated cinematographic works, and both Conventions have dealt with sound and video recordings, computer storage and retrieval, and other new technological media for conveying works of authorship.[77]

The obligation under Article I of the UCC for member States to "provide for adequate and effective protection of the rights of authors and other copyright proprietors" and the obligation in Article 1 of the Berne Convention for members of the Union to protect "the rights of authors in their literary and artistic works" clearly contemplates obligations of member States to adopt this copyright law to new modes of creation and dissemination of protected works either through the interpretation of existing law or through the enactment, when needed, of new legislation.

This obligation seems fundamental; without it the Convention would slowly become applicable only to 19th century works, as members could move to protect new forms of authorship outside copyright, free from the requirements of non-discrimination inherent in national treatment and without regard for the safeguard for authors' rights inherent in the Conventions.[78] Both the Berne and Universal Conventions incorporate duties to the future as well as to the past.

Computer programs are clearly works of authorship.[79] Many countries have already recognized computer programs as literary and artistic works.[80] Studies by WIPO, concerning the protection of computer software demonstrate that the practice of States that have confronted the question has been to protect programs under their copyright law, generally, as a kind of literary work.[81]

There is no doubt that States party to the Berne Convention and the UCC have considerable latitude in determining the boundaries of copyright protection accorded to works in their own countries. Certainly the threshold for copyright, the criterion of originality, can vary from country to country and the precise scope of the essential rights comprised by copyright may not exactly coincide.[82] But basic principles remain true. Once a particular type of work is regarded by "civilized countries" as squarely within the scope of authorship, there is an obligation to protect that work under the international copyright conventions.[83]

The general terms of the UCC do not place specific limits upon the discretion of States to draft copyright regimes. The point is that when authors are widely recognized as utilizing a new means of expression, the UCC obligation to protect such authorship in the new medium comes into play. That protection must only be "adequate and effective,"

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[72] The extensive listing of works in Article 2 of the Berne Convention defines the mandatory scope of coverage of the Convention, other works may be protected, and certain works may be subjected to limitations on their protection. See, *supra*, Ladas, note 68, p. 212.

[73] Report of the Rapporteur–General, in Kupferman and Foner, *Universal Copyright Convention Analyzed* (1955), pp. 220–221.

[74] See, Article IV of the 1886 text.

[75] Bogsch, *The Law of Copyright under the Universal Convention* (1964), p. 5.

[76] *Ibid.*, p. 6.

[77] See, "Report of the Second Committee of Governmental Experts on Copyright Problems Arising from the Use of Computers for Access to or the Creation of Works," (Paris, December 15 to 19, 1980) UNESCO/WIPO/CEGO/I/7, in *Copyright*, 1982, p. 239.

[78] Bogsch, *supra*, note 75.

[79] Ulmer & Kolle, *Copyright Protection for Computer Programs*, 14 IIC 159 (1983).

[80] See, *supra*, cases cited at note 49.

[81] "Report of the Committee of Experts on the Legal Protection of Computer Software," (Second Session, Geneva, June 13 to 17, 1983), in *Copyright*, 1983, p. 271.

[82] Ladas, *supra*, note 68, pp. 363–365; and Bogsch, *supra*, note 75, p. 5.

[83] Ladas, *supra*, note 68, p. 212; and Bogsch, *supra*, note 75, p. 74.

not necessarily ideal or uniform among States under the UCC.[84]

An important aspect in determining whether or not the "adequate and effective protection" of authors and copyright proprietors *requires* UCC States to expand their recognition of copyrightable subject matter to take fair account of novel ways in which modern authors express themselves appears to be the practice and experience of States. This notion is reflected in the Report of the 1952 Diplomatic Conference which drafted the UCC,[85] but Bogsch in his treatise also has summed up the situation:

> The general, not to say, vague, language of Article I, has, on the other hand, the very distinct advantage that as the views of the civilized countries change in respect of what is adequate, so will the obligations of the countries under Article I. Without modifying the language of the Convention, its material content will consequently undergo changes and the Convention will, so to speak, automatically keep itself modern. As soon as a new method of communication, multiplication, expression or realization of a work is invented, and as soon as the civilized countries recognize in their domestic laws some rights of the authors in connection with these new methods, the recognition of the same right to works (to which the Convention applies) will become mandatory under the Convention, because otherwise the standards of "adequate and effective" protection would not be respected.[86]

Under the Berne Convention, the outcome seems even more certain. The all embracing scope of the "literary works and artistic works" of the definition of Article 2 draws programs inexorably into the protection of the Convention.[87] And once generally accepted as a literary work, programs become part of the core material of the Convention. They can escape only through one of the special provisions of the Article which permit States to limit protection.[88] But none apply. For better or worse, we must acknowledge that programs are protected works under the Berne Convention.[89] To deny them copyright protection would constitute a clear violation of the spirit and the letter of the Berne Convention.[90]

It may be that as copyright continues to be confronted by problems peculiar to computer programs, stresses and strains may develop.[91] In the reported jurisprudence, significant stresses and strains, so far, have not shown up. If such stresses and strains do emerge, they may be dealt within an orderly and rational fashion within existing international agreements. The Berne Convention and the Universal Copyright Convention provide a framework for protecting works of intellectual creativity and a system to permit States to address how that protection shall be applied in a multilateral fashion, based on principles of non–discrimination and national treatment rather than the protectionism and reciprocity that often color bilateral international dealings.[92]

It has been suggested that the inclusion of computer programs within copyright has distorted copyright principles, drawn attention from the focus of copyright on authors' rights and threatens to rend the fabric of protection asunder.[93] In short, some believe that forcing what they see as the square peg of programs into the round hole of copyright will harm forever the purity and integrity of copyright. On the contrary, the peg has lost its square corners. When shorn of the fiction that the idea upon which the program is based cannot be separated from the program, what we have left is a very round peg, that fits neatly into the round hole of copyright.

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[84] Bogsch, *supra*, note 75, p. 5.

[85] See, *supra*, note 73.

[86] Bogsch, *supra*, note 75, p. 6.

[87] The World Intellectual Property Organization's *Guide to the Berne Convention* specifically notes that Article 2, paragraph (1) permits no limitation on protection of works by reason of their mode or form of expression.

[88] None of the paragraphs of Article 2 of the Berne Convention that permit limitations to be applied to protected works extend to the general category of literary works. Exceptions to protection are made only sparingly.

[89] For example, computer programs are included in the definition of "works" in the *WIPO Copyright Glossary*.

[90] As a type of literary work, programs may no more be withdrawn from copyright protection under the Convention than any other work. To permit a State unilaterally to withdraw copyright protection from one form of literary work would threaten the very nature of international copyright.

[91] Ladd, "To Cope With the World Upheaval in Copyright," in *Copyright*, Oct. 1983 (Reflections on the Future Development of Copyright), p. 289.

[92] See, *supra*, cases cited at note 49.

[93] Kerever, "Is Copyright an Anachronism?" in *Copyright*, 1983, pp. 368; see, also, Breyer, "The Uneasy Case for Copyright: A Study of Copyright in Books, Photocopies and Computer Programming," 84 Harv. L. Rev. 281 (1970).

Correspondence

Letter from Finland

Development of Copyright Legislation in Finland from 1982 to 1984

Jukka LIEDES* and Satu LAHTINEN**

1. General

The revision of the copyright legislation, which started in 1970 in cooperation with the other Nordic countries, began to produce significant results from 1980 onwards. At that time, provisions regulating private use were revised and new provisions, based on a system of contractual licenses, were issued regarding the phocopying of protected works. In the "Letter" published in *Copyright* in May 1982,[1] the legislative history was outlined up to 1981. The legislative amendments[2] resulting from the second partial revision will be discussed briefly in this "Letter."

An important change occurred in Finland's international copyright relations in 1983. After various preparatory stages which had taken 15 years, the President of the Republic ratified the 1961 Rome Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations. The Convention was brought into force by Decree (No. 56/83) on October 21, 1983. Bringing the Convention into force did not require any amendments to the legislation. In the reservations made in connection with the ratification, Finland formulated the protection to be given to right owners from other countries which are party to the Convention to correspond as a rule to the provisions in force in Finland regarding neighboring rights. The right of performers and producers of phonograms to remuneration for the use of phonograms in radio and television broadcasts under Article 12 of the Convention was recognized under § 47 of the Finnish Copyright Act.

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[1] See *Copyright*, 1982, pp. 156 *et seq.*
[2] *Ibid.*, in this issue, pp. 105 *et seq.*

2. The 1984 Revision

The revision made on the basis of the proposals of the Copyright Committee came into force on June 15, 1984. Amendments (Acts Nos. 442/84 and 443/84) with the same content were made *mutatis mutandis* to both the Copyright Act (No. 404/61) and the Act on Rights in Photographic Pictures (No. 405/61), and therefore reference is made below only to the Copyright Act.

(a) Recording of broadcast works in educational activities

The recording, for educational activities and for scientific research, of broadcast protected materials was organized on the basis of a system of so-called contractual licenses. Under § 17 of the Copyright Act, recording is permitted on the terms and conditions of a contract made with an organization which represents numerous Finnish authors of a certain field. Copyright holders not represented by the organization have the right to request a personal remuneration for such recording. The remuneration is to be requested from the organization within two years from the end of the year of the recording.

Permission to record must be obtained not only from the organization representing the authors, performers, producers of phonograms and photographers, but also from the broadcaster. According to its nature, the principle of contractual licenses does not cover a broadcasting organization. If agreement regarding the terms and conditions of recording is not reached with respect to a program made and broadcast for educational purposes, the question regarding the granting of a license and its terms and conditions shall be decided by arbitration in compliance with § 54.

According to § 17 of the Copyright Act, so-called direct recording is also permitted in educational activities. It is permissible to record for temporary use required by the teaching situation a published work performed by a teacher or a student.

(b) Levy on blank tapes and cassettes

Greatest attention in the public discussion was paid to the new provisions in the Copyright Act concerning the levy on blank tapes and cassettes (§§ 26a – 26h). At the importation or manufacturing stage, a levy is paid on blank audio and video cassettes suitable for private use, in compensation for home recording; provisions concerning this levy have been incorporated into the Copyright Act. The amount of the levy is fixed annually by the Ministry of Education. For 1984 and 1985, the amount of the levy has been fixed at 0.025 Finnish marks per minute for audio tapes and at 0.05 Finnish marks per minute for video tapes (Finnish Statutes 450/84 and 931/84). The levy is collected by an organization approved by the Ministry of Education. On the day the amendment came into force, the Ministry approved the Finnish Composers' International Copyright Bureau Teosto as the collecting organization.

According to the provisions, refunding of that part of the price which corresponds to the levy can be requested for tapes used for professional production and for the recordings of the visually or aurally handicapped, to mention a couple of examples. The right to a refund will expire if the refund has not been requested within three months from the end of the year during which the right to the refund came into being.

The proceeds from the cassette levy will be used both for direct copyright remuneration and for the joint purpose of authors. In addition to creative authors, performers, producers of phonograms and photographers also are entitled to remuneration. The Ministry of Education and the collecting organization agree annually regarding the proportion to be used for joint purposes. Under the agreement concluded between the Ministry and Teosto for 1984 and 1985, two thirds of the proceeds of the levy will be used for joint purposes. More detailed plans for the use of this collective compensation will be confirmed separately.

(c) Sanctions against piracy

Especially in order to combat piracy, the maximum penalty for violations of copyright was increased from six months to two years of imprisonment. In the grounds to its proposal, the Government referred, among other things, to book, phonogram and video piracy, and to piracy in the fields of radio broadcasting and electronic data processing.

Violations of copyright were divided into two categories: copyright crimes to be punished more severely, and copyright offenses to be punished more mildly. A copyright crime is subject to public prosecution, whereas charges against a copyright offense can be brought only at the request of the injured party. Criminal investigation has been facilitated by the repeal of § 62, third paragraph, of the Copyright Act. After the amendment the general provisions regarding search and seizure are being applied. The increasing of the maximum penalty has also led to a lengthening of the period during which prosecution is permitted. This is a circumstance facilitating investigation.

The provisions concerning damages were revised in such a way that the damages granted for illicit use of works would correspond better than previously to the actual damage caused.

(d) Copyright Council

To replace the standing Committee of Experts which assisted the Ministry of Education, a provision was passed regarding the establishing of a Copyright Council (§ 55). Its task is, first, to assist the Ministry of Education in matters of copyright administration pertaining to copyright and to rights in photographic pictures and, secondly, to issue statements to the authorities and to private persons regarding the application of the copyright legislation in individual cases.

It should also be mentioned in this context that the provisions concerning arbitration, prescribed as a procedure for settling copyright disputes, were revised (§ 54). Arbitration is the primary procedure for settling remuneration disputes in cases of statutory licenses.

3. Minor Amendments from 1982 to 1984

(a) Adjustment of unfair terms of contract

In connection with the legislative revision of 1982 aiming at making legal acts fair, all the provisions in different Acts concerning the making of legal acts fair were amended to refer to the new § 36 of the Contracts Act.

If a term or condition of a legal act is unfair, or if its application would lead to unfairness, the term or condition can, under the said provision, be either adjusted or not taken into account. Article 29 of the Copyright Act, concerning the adjustment of an unfair term or condition in a contract concluded regarding the transfer of a copyright, contains in its amended form (Act No. 960/82) a reference to the Contracts Act.

(b) Deposit of films in archives

In summer 1984, an Act was passed regarding the deposit of films in archives (No. 576/84). According to this Act the Finnish Film Archive has, among others, the right to prepare copies of a publicly performed Finnish film or of publicity material for such a film. The film and its publicity materials can be used only for research and for high level instruc-

tion in cinematography. In connection with the Act regarding the Delivery and the Deposit of Films in Archives, limitation provisions were added to the Copyright Act (No. 578/84) and to the Act on Rights in Photographic Pictures (No. 579/84); under these provisions, what has been provided in the Act regarding the Delivery and the Deposit of Films in Archives shall be in force regarding the copying rights of the Finnish Film Archive. Thus, this limitation does not extend to foreign films whose deposit in archives and copying have been left to be arranged on a contractual basis.

4. Outlines of Future Revision

The national Copyright Committee appointed to prepare the revision of the legislation is continuing its work.[3] The third stage of the revision is now being planned by the Committee.

[3] The Chairman of the Committee was, from 1976, onwards Mr. Ragnar Meinander, Government Counsellor; since the beginning of 1985 the Chairman has been Mr. Jukka Liedes. The Secretary General of the Committee is Ms Satu Lahtinen.

The intention is to incorporate into the next, third sub-report of the Committee proposals regarding the revision of the rights of performers, producers of phonograms and broadcasting organizations, the revision of rights in photographs and the revision of copyright in an employment relationship. The question of possible independent protection of a producer of a cinematographic work or a video program will also be considered in this context. Separate expert groups appointed by the Ministry of Education have been preparing a revision of the legislation regarding the rebroadcasting and communication by wire of radio and television broadcasts, and the revision of the rights of authors of pictorial art.

The questions to be handled after those mentioned above will include the questions of the protection of computer software and data bases, the licensing of the reproduction of audiovisual materials on video cassettes by means of possible new contractual license provisions, the law of copyright contracts in general, and the revision of a number of limitation provisions in copyright; some of these are already under preparation.

Book Reviews

A Handbook of Copyright in British Publishing Practice, by *J.M. Cavendish.* One volume of 210 pages. Second edition. Cassell Ltd., London, 1984.

The life of copyright laws unfolds in the everyday practice of using protected works. Essentially, copyright lives and breathes through non-lawyers whose concern is with subject matters, and who implement the law as a matter of routine. Copyright experts generally intervene only where disorders upset the normal operation of the copyright system or where it is challenged by special circumstances. There is thus a permanent need for books that further the understanding of copyright law by non-lawyers who have to comply with its requirements in the course of their professional activities.

Mrs. Cavendish has produced an excellent example of such a book. Since 1974, when her work was first published, it has been thoroughly revised and brought up to date in order that account may be taken of new developments in copyright, particularly in British law, such as the preparatory work on the revision of the Copyright Act of 1956, or relevant case law; recent US legislation is also considered, however, as are various proposals and initiatives to ease particular copyright problems.

The handbook describes the existing copyright law and special regulations relating to publishing (e.g. those concerning the deposit of publications and scripts, or the International Standard Book Numbering system). It covers both statutory provisions and prevailing usage. The handbook is conceived in a well-structured and clear fashion; it explains the legal provisions in an easily understandable manner and offers reliable guidance through the labyrinth of lawful publishing and use of books for the benefit of writers, artists, composers, photographers, editors, journalists, copyright agencies and librarians, not to mention people working in radio, television and films and also in music, electronic and software publishing.

Apart from describing the basic notions of copyright law, such as the meaning of copyright, its owenrship, duration, contents and limitations, the author gives information and advice on practical aspects of the implementation of the law, e.g. the extent to which protected works may be used to create a new work, the copyright position regarding the revision of texts, or the publishing of texts with a supervisory editor.

The handbook also covers relatively new aspects of copyright protection, such as the public lending right, questions of reprographic reproduction and copying by libraries, the publisher's copyright in his typography, cable television, satellite broadcasting and copyright problems relating to computers.

Particularly instructive parts are those devoted to the contractual aspects of publishing protected works (how to compose a contract, the differences between licensing and assignment, the rights covered by a publishing contract (with special regard to the so-called subsidiary rights), "blanket licensing," etc.).

In addition to questions arising from everyday practice, the book also contains information on some special institutions of British Copyright Law, such as works in perpetual copyright (granted to universities and colleges under the Copyright Act of 1775) or the privileges relating to the Authorized ("King James") Version of the Bible.

Though expressly intended for non-lawyers, the handbook may well afford preliminary assistance also to lawyers not specialized in copyright, especially those outside the United Kingdom, in finding their way in British copyright law.

G.B.

Calendar of Meetings

WIPO Meetings

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

1985

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 3 to 7 (Geneva) — Nice Union: Committee of Experts

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

October 21 to 25 (Geneva) — Nice Union: Committee of Experts

November 4 to 30 (Plovdiv) — WIPO/Bulgaria: World Exhibition of Young Inventors and International Seminar on Inventiveness for Development Purposes (November 12 to 15)

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

1985

May 8 to 10 (Wageningen) — Technical Working Party on Automation and Computer Programs

June 4 to 7 (Hanover) — Technical Working Party for Agricultural Crops, and Subgroup

June 18 to 21 (Aarslev) — Technical Working Party for Fruit Crops, and Subgroup

June 24 to 27 (Aars and Aarslev) — Technical Working Party for Ornamental Plants and Forest Trees, and Subgroups

July 8 to 12 (Cambridge) — Technical Working Party for Vegetables, and Subgroup

October 14 (Geneva) — Consultative Committee

October 15 and 16 (Geneva) — Meeting with International Organizations

October 17 and 18 (Geneva) — Council

November 12 and 13 (Geneva) — Technical Committee

November 14 and 15 (Geneva) — Administrative and Legal Committee

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

Non–Governmental Organizations

1985

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

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

May 2 to 4 (Perugia) — International Confederation of Societies of Authors and Composers (CISAC) — Legal and Legislation Committee

May 6 to 9 (Zurich) — International Federation of Musicians (FIM) — Executive Committee

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

June 19 and 20 (Geneva) — International Federation of Phonogram and Videogram Producers (IFPI) — Council and General Assembly

September 10 to 14 (Athens) — International Federation of Actors (FIA) — Congress

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

1986

May 8 and 9 (Heidelberg) — International Publishers Association (IPA) — Reprography Symposium

September 8 to 12 (Berne) — International Literary and Artistic Association (ALAI) — Congress