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Monthly Review of the
World Intellectual Property Organization (WIPO)

Contents

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COPYRIGHT AND NEIGHBORING RIGHTS LAWS AND TREATIES

(INSERTS)

Treaties

(Status on January 1, 1989)

Convention Establishing the World Intellectual Property Organization

WIPO Convention (1967), amended in 1979

State	Date on which State became member of WIPO	Member also of Paris Union (P) and/or Berne Union (B)[1]	
Algeria	April 16, 1975	P	–
Angola (c)[2]	April 15, 1985	–	–
Argentina	October 8, 1980	P	B
Australia	August 10, 1972	P	B
Austria	August 11, 1973	P	B
Bahamas	January 4, 1977	P	B
Bangladesh (c)[2]	May 11, 1985	–	–
Barbados	October 5, 1979	P	B
Belgium	January 31, 1975	P	B
Benin	March 9, 1975	P	B
Brazil	March 20, 1975	P	B
Bulgaria	May 19, 1970	P	B
Burkina Faso	August 23, 1975	P	B
Burundi	March 30, 1977	P	–
Byelorussian SSR (c)[2]	April 26, 1970	–	–
Cameroon	November 3, 1973	P	B
Canada	June 26, 1970	P	B
Central African Republic	August 23, 1978	P	B
Chad	September 26, 1970	P	B
Chile	June 25, 1975	–	B
China	June 3, 1980	P	–
Colombia	May 4, 1980	–	B
Congo	December 2, 1975	P	B
Costa Rica	June 10, 1981	–	B
Côte d'Ivoire	May 1, 1974	P	B
Cuba	March 27, 1975	P	–
Cyprus	October 26, 1984	P	B
Czechoslovakia	December 22, 1970	P	B
Democratic People's Republic of Korea	August 17, 1974	P	–
Denmark	April 26, 1970	P	B
Ecuador (c)[2]	May 22, 1988	–	–
Egypt	April 21, 1975	P	B
El Salvador (c)[2]	September 18, 1979	–	–
Fiji	March 11, 1972	–	B
Finland	September 8, 1970	P	B

State	Date on which State became member of WIPO	Member also of Paris Union (P) and/or Berne Union (B)[1]	
France	October 18, 1974	P	B
Gabon	June 6, 1975	P	B
Gambia (c)[2]	December 10, 1980	–	–
German Democratic Republic	April 26, 1970	P	B
Germany, Federal Republic of	September 19, 1970	P	B
Ghana	June 12, 1976	P	–
Greece	March 4, 1976	P	B
Guatemala (c)[2]	April 30, 1983	–	–
Guinea	November 13, 1980	P	B
Guinea-Bissau	June 28, 1988	P	–
Haiti	November 2, 1983	P	–
Holy See	April 20, 1975	P	B
Honduras (c)[2]	November 15, 1983	–	–
Hungary	April 26, 1970	P	B
Iceland	September 13, 1986	P	B
India	May 1, 1975	–	B
Indonesia	December 18, 1979	P	–
Iraq	January 21, 1976	P	–
Ireland	April 26, 1970	P	B
Israel	April 26, 1970	P	B
Italy	April 20, 1977	P	B
Jamaica (c)[2]	December 25, 1978	–	–
Japan	April 20, 1975	P	B
Jordan	July 12, 1972	P	–
Kenya	October 5, 1971	P	–
Lebanon	December 30, 1986	P	–
Lesotho (c)[2]	November 18, 1986	–	–
Liberia	March 8, 1989	–	B
Libya	September 28, 1976	P	B
Liechtenstein	May 21, 1972	P	B
Luxembourg	March 19, 1975	P	B
Malawi	June 11, 1970	P	–
Malaysia	January 1, 1989	P	–
Mali	August 14, 1982	P	B
Malta	December 7, 1977	P	B
Mauritania	September 17, 1976	P	B
Mauritius	September 21, 1976	P	–
Mexico	June 14, 1975	P	B
Monaco	March 3, 1975	P	B
Mongolia	February 28, 1979	P	–
Morocco	July 27, 1971	P	B
Netherlands	January 9, 1975	P	B
New Zealand	June 20, 1984	P	–
Nicaragua (c)[2]	May 5, 1985	–	–
Niger	May 18, 1975	P	B
Norway	June 8, 1974	P	B
Pakistan	January 6, 1977	–	B
Panama (c)[2]	September 17, 1983	–	–
Paraguay (c)[2]	June 20, 1987	–	–
Peru	September 4, 1980	–	B

State	Date on which State became member of WIPO	Member also of Paris Union (P) and/or Berne Union (B)[1]	
Philippines	July 14, 1980	P	B
Poland	March 23, 1975	P	–
Portugal	April 27, 1975	P	B
Qatar (b)[2]	September 3, 1976	–	–
Republic of Korea	March 1, 1979	P	–
Romania	April 26, 1970	P	B
Rwanda	February 3, 1984	P	B
Saudi Arabia (a)[2]	May 22, 1982	–	–
Senegal	April 26, 1970	P	B
Sierra Leone (c)[2]	May 18, 1986	–	–
Somalia (c)[2]	November 18, 1982	–	–
South Africa	March 23, 1975	P	B
Soviet Union	April 26, 1970	P	–
Spain	April 26, 1970	P	B
Sri Lanka	September 20, 1978	P	B
Sudan	February 15, 1974	P	–
Suriname	November 25, 1975	P	B
Swaziland (c)[2]	August 18, 1988	–	–
Sweden	April 26, 1970	P	B
Switzerland	April 26, 1970	P	B
Togo	April 28, 1975	P	B
Trinidad and Tobago	August 16, 1988	P	B
Tunisia	November 28, 1975	P	B
Turkey	May 12, 1976	P	–
Uganda	October 18, 1973	P	–
Ukrainian SSR (c)[2]	April 26, 1970	–	–
United Arab Emirates (b)[2]	September 24, 1974	–	–
United Kingdom	April 26, 1970	P	B
United Republic of Tanzania	December 30, 1983	P	–
United States of America	August 25, 1970	P	B
Uruguay	December 21, 1979	P	B
Venezuela	November 23, 1984	–	B
Viet Nam	July 2, 1976	P	–
Yemen (c)[2]	March 29, 1979	–	–
Yugoslavia	October 11, 1973	P	B
Zaire	January 28, 1975	P	B
Zambia	May 14, 1977	P	–
Zimbabwe	December 29, 1981	P	B

(Total: 123 States)

(The footnotes are to be found overleaf)

[1] "P" means that the State is also a member of the International Union for the Protection of Industrial Property (Paris Union), founded by the Paris Convention for the Protection of Industrial Property, and has ratified or acceded to at least the administrative and final provisions (Articles 13 to 30) of the Stockholm Act (1967) of that Convention.
"B" means that the State is also a member of the International Union for the Protection of Literary and Artistic Works (Berne Union), founded by the Berne Convention for the Protection of Literary and Artistic Works, and has ratified or acceded to at least the administrative and final provisions (Articles 22 to 38) of the Stockholm Act (1967) or the Paris Act (1971) of that Convention.

[2] "(a)" means that the State is a member of the World Intellectual Property Organization without being a member of either the Paris Union or the Berne Union and that it chose Class A for the purpose of establishing its contribution (see WIPO Convention, Article 11(4)*(a)*).
"(b)" means that the State is a member of the World Intellectual Property Organization without being a member of either the Paris Union or the Berne Union and that it chose Class B for the purpose of establishing its contribution (see WIPO Convention, Article 11(4)*(a)*).
"(c)" means that the State is a member of the World Intellectual Property Organization without being a member of either the Paris Union or the Berne Union and that it chose Class C for the purpose of establishing its contribution (see WIPO Convention, Article 11(4)*(a)*).

Berne Convention for the Protection of Literary and Artistic Works

Berne Convention (1886),
completed at Paris (1896), revised at Berlin (1908),
completed at Berne (1914), revised at Rome (1928),
at Brussels (1948), at Stockholm (1967)
and at Paris (1971) and amended in 1979

(Berne Union)

State	Class chosen	Date on which State became party to the Convention	Latest Act[1] of the Convention to which State is party and date on which State became party to that Act
Argentina	VI	June 10, 1967	*Brussels: June 10, 1967* Paris, Articles 22 to 38: October 8, 1980
Australia	III	April 14, 1928	Paris: March 1, 1978
Austria	VI	October 1, 1920	Paris: August 21, 1982
Bahamas	VII	July 10, 1973	*Brussels: July 10, 1973* Paris, Articles 22 to 38: January 8, 1977[11]
Barbados	VII	July 30, 1983	Paris: July 30, 1983
Belgium	III	*December 5, 1887*	*Brussels: August 1, 1951* *Stockholm, Articles 22 to 38: February 12, 1975*
Benin	VII	January 3, 1961[12]	Paris: March 12, 1975
Brazil	VI	February 9, 1922	Paris: April 20, 1975
Bulgaria	VI	December 5, 1921	Paris: December 4, 1974[11]
Burkina Faso	VII	August 19, 1963[15]	Paris: January 24, 1976
Cameroon	VI	September 21, 1964[12]	Paris, Articles 1 to 21: October 10, 1974 Paris, Articles 22 to 38: November 10, 1973
Canada	III	*April 10, 1928*	*Rome: August 1, 1931* *Stockholm, Articles 22 to 38: July 7, 1970*
Central African Republic	VII	September 3, 1977	Paris: September 3, 1977
Chad	VII	*November 25, 1971*	*Brussels: November 25, 1971*[2,4] *Stockholm, Articles 22 to 38: November 25, 1971*
Chile	VI	June 5, 1970	Paris: July 10, 1975
Colombia	VII	March 7, 1988	Paris: March 7, 1988
Congo	VII	May 8, 1962[12]	Paris: December 5, 1975
Costa Rica	VII	June 10, 1978	Paris: June 10, 1978
Côte d'Ivoire	VI	January 1, 1962	Paris, Articles 1 to 21: October 10, 1974 Paris, Articles 22 to 38: May 4, 1974
Cyprus	VII	February 24, 1964[12]	Paris: July 27, 1983[7]
Czechoslovakia	IV	February 22, 1921	Paris: April 11, 1980[11]
Denmark	IV	July 1, 1903	Paris: June 30, 1979
Egypt	VII	June 7, 1977	Paris: June 7, 1977[11]
Fiji	VII	*December 1, 1971*[12]	*Brussels: December 1, 1971* *Stockholm, Articles 22 to 38: March 15, 1972*
Finland	IV	April 1, 1928	Paris: November 1, 1986
France	I	December 5, 1887	Paris, Articles 1 to 21: October 10, 1974 Paris, Articles 22 to 38: December 15, 1972
Gabon	VII	March 26, 1962	Paris: June 10, 1975
German Democratic Republic	V	December 5, 1887[14]	Paris: February 18, 1978[11]

State	Class chosen	Date on which State became party to the Convention	Latest Act[1] of the Convention to which State is party and date on which State became party to that Act
Germany, Federal Republic of	1	December 5, 1887[14]	Paris, Articles 1 to 21: October 10, 1974[5] Paris, Articles 22 to 38: January 22, 1974
Greece	VI	November 9, 1920	Paris: March 8, 1976
Guinea	VII	November 20, 1980	Paris: November 20, 1980
Holy See	VII	September 12, 1935	Paris: April 24, 1975
Hungary	VI	February 14, 1922	Paris, Articles 1 to 21: October 10, 1974 Paris, Articles 22 to 38: December 15, 1972[11]
Iceland	VII	September 7, 1947	*Rome: September 7, 1947*[7] Paris, Articles 22 to 38: December 28, 1984
India	IV	April 1, 1928	Paris, Articles 1 to 21: May 6, 1984[6,9,10] Paris, Articles 22 to 38: January 10, 1975[11]
Ireland	IV	*October 5, 1927*	*Brussels: July 5, 1959* *Stockholm, Articles 22 to 38: December 21, 1970*
Israel	VI	*March 24, 1950*	*Brussels: August 1, 1951* *Stockholm, Articles 22 to 38: January 29 or February 26, 1970*[3]
Italy	III	December 5, 1887	Paris: November 14, 1979
Japan	II	July 15, 1899	Paris: April 24, 1975[7]
Lebanon	VI	*September 30, 1947*	*Rome: September 30, 1947*
Liberia	VII	March 8, 1989	Paris: March 8, 1989[6, 11]
Libya	VI	September 28, 1976	Paris: September 28, 1976[11]
Liechtenstein	VII	*July 30, 1931*	*Brussels: August 1, 1951* *Stockholm, Articles 22 to 38: May 25, 1972*
Luxembourg	VII	June 20, 1888	Paris: April 20, 1975
Madagascar	VI	*January 1, 1966*	*Brussels: January 1, 1966*
Mali	VII	March 19, 1962[12]	Paris: December 5, 1977
Malta	VII	September 21, 1964	*Rome: September 21, 1964* Paris, Articles 22 to 38: December 12, 1977[11]
Mauritania	VII	February 6, 1973	Paris: September 21, 1976
Mexico	IV	June 11, 1967	Paris: December 17, 1974[6]
Monaco	VII	May 30, 1889	Paris: November 23, 1974
Morocco	VI	June 16, 1917	Paris: May 17, 1987
Netherlands	III	November 1, 1912	Paris, Articles 1 to 21: January 30, 1986[16] Paris, Articles 22 to 38: January 10, 1975[17]
New Zealand	V	*April 24, 1928*	*Rome: December 4, 1947*
Niger	VII	May 2, 1962[12]	Paris: May 21, 1975
Norway	IV	April 13, 1896	*Brussels: January 28, 1963*[5] Paris, Articles 22 to 38: June 13, 1974
Pakistan	VI	*July 5, 1948*	*Rome: July 5, 1948*[2] *Stockholm, Articles 22 to 38: January 29, or February 26, 1970*[3]
Peru	VII	August 20, 1988	Paris: August 20, 1988
Philippines	VI	August 1, 1951	*Brussels: August 1, 1951* Paris, Articles 22 to 38: July 16, 1980
Poland	VI	*January 28, 1920*	*Rome: November 21, 1935*
Portugal	V	March 29, 1911	Paris: January 12, 1979[18]
Romania	VI	*January 1, 1927*	*Rome: August 6, 1936*[2] *Stockholm, Articles 22 to 38: January 29 or February 26, 1970*[3,11]
Rwanda	VII	March 1, 1984	Paris: March 1, 1984
Senegal	VI	August 25, 1962	Paris: August 12, 1975
South Africa	IV	October 3, 1928	*Brussels: August 1, 1951* Paris, Articles 22 to 38: March 24, 1975[11]
Spain	II	December 5, 1887	Paris, Articles 1 to 21: October 10, 1974 Paris, Articles 22 to 38: February 19, 1974

State	Class chosen	Date on which State became party to the Convention	Latest Act[1] of the Convention to which State is party and date on which State became party to that Act
Sri Lanka	VII	July 20, 1959[12]	*Rome: July 20, 1959* Paris, Articles 22 to 38: September 23, 1978
Suriname	VII	February 23, 1977	Paris: February 23, 1977
Sweden	III	August 1, 1904	Paris, Articles 1 to 21: October 10, 1974 Paris, Articles 22 to 38: September 20, 1973
Switzerland	III	*December 5, 1887*	*Brussels: January 2, 1956* *Stockholm, Articles 22 to 38: May 4, 1970*
Thailand	VII	July 17, 1931	*Berlin: July 17, 1931*[8] Paris, Articles 22 to 38: December 29, 1980[11]
Togo	VII	April 30, 1975	Paris: April 30, 1975
Trinidad and Tobago	VII	August 16, 1988	Paris: August 16, 1988
Tunisia	VII	December 5, 1887	Paris: August 16, 1975[11]
Turkey	VI	*January 1, 1952*	*Brussels: January 1, 1952*[7]
United Kingdom	I	*December 5, 1887*	*Brussels: December 15, 1957*[5,13] *Stockholm, Articles 22 to 38: January 29 or February 26, 1970*[3]
United States of America	I	March 1, 1989	Paris: March 1, 1989
Uruguay	VII	July 10, 1967	Paris: December 28, 1979
Venezuela	VI	December 30, 1982	Paris: December 30, 1982[11]
Yugoslavia	VI	June 17, 1930	Paris: September 2, 1975[7]
Zaire	VI	October 8, 1963[12]	Paris: January 31, 1975
Zimbabwe	VII	April 18, 1980	*Rome: April 18, 1980* Paris, Articles 22 to 38: December 30, 1981

(Total: 81 States)

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[1] "Paris" means the Berne Convention for the Protection of Literary and Artistic Works as revised at Paris on July 24, 1971 (Paris Act); "Stockholm" means the said Convention as revised at Stockholm on July 14, 1967 (Stockholm Act); "Brussels" means the said Convention as revised at Brussels on June 26, 1948 (Brussels Act); "Rome" means the said Convention as revised at Rome on June 2, 1928 (Rome Act); "Berlin" means the said Convention as revised at Berlin on November 13, 1908 (Berlin Act).

[2] This country deposited its instrument of ratification of (or of accession to) the Stockholm Act in its entirety; however, Articles 1 to 21 (substantive clauses) of the said Act have not entered into force.

[3] These are the alternative dates of entry into force which the Director General of WIPO communicated to the States concerned.

[4] In accordance with the provision of Article 29 of the Stockholm Act applicable to the countries outside the Union which accede to the said Act, this country is bound by Articles 1 to 20 of the Brussels Act.

[5] This country has declared that it admits the application of the Appendix of the Paris Act to works of which it is the country of origin by countries which have made a declaration under Article VI(1)(i) of the Appendix or a notification under Article I of the Appendix. The declarations took effect on October 18, 1973, for Germany (Federal Republic of), on March 8, 1974, for Norway, and on September 27, 1971, for the United Kingdom.

[6] Pursuant to Article I of the Appendix of the Paris Act, this country availed itself of the faculties provided for in Articles II and III of the said Appendix. The relevant declaration is effective until October 10, 1994.

[7] Accession or ratification subject to the reservation concerning the right of translation (for Japan, until December 31, 1980).

[8] Accession subject to reservations concerning works of applied art, conditions and formalities required for protection, the right of translation, the right of reproduction of articles published in newspapers or periodicals, the right of performance, and the application of the Convention to works not yet in the public domain at the date of its coming into force.

[9] This country declared that its ratification shall not apply to the provisions of Article 14bis(2)*(b)* of the Paris Act (presumption of legitimation for some authors who have brought contributions to the making of the cinematographic work).

[10] This country notified the designation of the competent authority provided by Article 15(4) of the Paris Act.

[11] Accession or ratification with the declaration provided for in Article 33(2) relating to the International Court of Justice.

[12] Date on which the declaration of continued adherence was sent, after the accession of the country to independence.

[13] The United Kingdom extended the application of the Brussels Act to the territory of Hong Kong with effect from May 5, 1973.

[14] Date on which the accession by the German Empire became effective.

[15] Burkina Faso, which had acceded to the Berne Convention (Brussels Act) as from August 19, 1963, denounced the said Convention as from September 20, 1970. Later on, Burkina Faso acceded again to the Berne Convention (Paris Act); this accession took effect on January 24, 1976.

[16] Ratification for the Kingdom in Europe.

[17] Ratification for the Kingdom in Europe. Articles 22 to 38 of the Paris Act apply also to the Netherlands Antilles and Aruba.

[18] Pursuant to the provisions of Article 14bis(2)*(c)* of the Paris Act, this country has made a declaration to the effect that the undertaking by authors to bring contributions to the making of a cinematographic work must be in a written agreement. This declaration was received on November 5, 1986.

Other Treaties in the Fields of Copyright and Neighboring Rights Administered by WIPO

International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations

Rome Convention (1961)

State	Date on which State became party to the Convention	State	Date on which State became party to the Convention
Austria *	June 9, 1973	Guatemala	January 14, 1977
Barbados	September 18, 1983	Ireland *	September 19, 1979
Brazil	September 29, 1965	Italy *	April 8, 1975
Burkina Faso	January 14, 1988	Luxembourg *	February 25, 1976
Chile	September 5, 1974	Mexico	May 18, 1964
Colombia	September 17, 1976	Monaco *	December 6, 1985
Congo *	May 18, 1964	Niger *	May 18, 1964
Costa Rica	September 9, 1971	Norway *	July 10, 1978
Czechoslovakia *	August 14, 1964	Panama	September 2, 1983
Denmark *	September 23, 1965	Paraguay	February 26, 1970
Dominican Republic	January 27, 1987	Peru	August 7, 1985
Ecuador	May 18, 1964	Philippines	September 25, 1984
El Salvador	June 29, 1979	Sweden *	May 18, 1964
Fiji *	April 11, 1972	United Kingdom *	May 18, 1964
Finland *	October 21, 1983	Uruguay	July 4, 1977
France *	July 3, 1987		
Germany, Federal Republic of *	October 21, 1966		(Total: 32 States)

Note: The secretarial tasks relating to this Convention are performed jointly with the International Labour Office and Unesco.

* The instruments of ratification or accession deposited with the Secretary-General of the United Nations by the following countries contain declarations made under the articles mentioned hereafter (with reference to publication in *Le Droit d'auteur (Copyright)* for the years 1962 to 1964 and in *Copyright* since 1965):
Austria, Article 16(1)*(a)*(iii) and (iv) and 1*(b)* [1973, p. 67];
Congo, Articles 5(3) (concerning Article 5(1)*(c)*) and 16(1)*(a)*(i) [1964, p. 127];
Czechoslovakia, Article 16(1)*(a)*(iii) and (iv) [1964, p. 110];
Denmark, Articles 6(2), 16(1)*(a)*(ii) and (iv) and 17 [1965, p. 214];
Fiji, Articles 5(3) (concerning Article 5(1)*(b)*), 6(2) and 16(1)*(a)*(i) [1972, pp. 88 and 178];
Finland, Articles 6(2), 16(1)*(a)*(i), (ii) and (iv), 16(1)*(b)* and 17 [1983, p. 287];
France, Articles 5(3) and 16(1)*(a)*(iii) [1987, p. 184];
Germany (Federal Republic of), Articles 5(3) (concerning Article 5(1)*(b)*) and 16(1)*(a)*(iv) [1966, p. 237];
Ireland, Articles 5(3) (concerning Article 5(1)*(b)*), 6(2) and 16(1)*(a)*(ii) [1979, p. 218];
Italy, Articles 6(2), 16(1)*(a)*(ii), (iii) and (iv), 16(1)*(b)* and 17 [1975, p. 44];
Luxembourg, Articles 5(3) (concerning Article 5(1)*(c)*), 16(1)*(a)*(i) and 16(1)*(b)* [1976, p. 24];
Monaco, Articles 5(3) (concerning Article 5(1)*(c)*), 16(1)*(a)*(i) and 16(1)*(b)* [1985, p. 422];
Niger, Articles 5(3) (concerning Article 5(1)*(c)*) and 16(1)*(a)*(i) [1963, p. 155];
Norway, Articles 6(2) and 16(1)*(a)*(ii), (iii) and (iv) [1978, p. 133];
Sweden, Article 16(1)*(b)* [1962, p. 138; 1986, p. 382];
United Kingdom, Articles 5(3) (concerning Article 5(1)*(b)*), 6(2) and 16(1)*(a)*(ii), (iii) and (iv) [1963, p. 244]; the same declarations were made for Gibraltar and Bermuda [1967, p. 36; 1970, p. 108].

Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms

Phonograms Convention (Geneva, 1971)

State	Date on which State became party to the Convention	State	Date on which State became party to the Convention
Argentina	June 30, 1973	Israel	May 1, 1978
Australia	June 22, 1974	Italy *	March 24, 1977
Austria	August 21, 1982	Japan	October 14, 1978
Barbados	July 29, 1983	Kenya	April 21, 1976
Brazil	November 28, 1975	Luxembourg	March 8, 1976
Burkina Faso	January 30, 1988	Mexico	December 21, 1973
Chile	March 24, 1977	Monaco	December 2, 1974
Costa Rica	June 17, 1982	New Zealand	August 13, 1976
Czechoslovakia	January 15, 1985	Norway	August 1, 1978
Denmark	March 24, 1977	Panama	June 29, 1974
Ecuador	September 14, 1974	Paraguay	February 13, 1979
Egypt	April 23, 1978	Peru	August 24, 1985
El Salvador	February 9, 1979	Republic of Korea	October 10, 1987
Fiji	April 18, 1973	Spain	August 24, 1974
Finland *	April 18, 1973	Sweden	April 18, 1973
France	April 18, 1973	Trinidad and Tobago	October 1, 1988
Germany, Federal Republic of	May 18, 1974	United Kingdom	April 18, 1973
Guatemala	February 1, 1977	United States of America	March 10, 1974
Holy See	July 18, 1977	Uruguay	January 18, 1983
Hungary	May 28, 1975	Venezuela	November 18, 1982
India	February 12, 1975	Zaire	November 29, 1977

(Total: 42 States)

* This country has declared, in accordance with Article 7(4) of the Convention, that it will apply the criterion according to which it affords protection to producers of phonograms solely on the basis of the place of first fixation instead of the criterion of the nationality of the producer.

Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite

Satellites Convention (Brussels, 1974)

State	Date on which State became party to the Convention	State	Date on which State became party to the Convention
Austria	August 6, 1982	Nicaragua	August 25, 1979
Germany, Federal Republic of *	August 25, 1979	Panama	September 25, 1985
Italy *	July 7, 1981	Peru	August 7, 1985
Kenya	August 25, 1979	Soviet Union	January 20, 1989
Mexico	August 25, 1979	United States of America	March 7, 1985
Morocco	June 30, 1983	Yugoslavia	August 25, 1979

(Total: 12 States)

* With a declaration, pursuant to Article 2(2) of the Convention, that the protection accorded under Article 2(1) is restricted in its territory to a period of 25 years after the expiry of the calendar year in which the transmission by satellite has occurred.

Nairobi Treaty on the Protection of the Olympic Symbol

Nairobi Treaty (1981)

State	Date on which State became party to the Treaty	State	Date on which State became party to the Treaty
Algeria	August 16, 1984	India	October 19, 1983
Argentina	January 10, 1986	Italy	October 25, 1985
Barbados	February 28, 1986	Jamaica	March 17, 1984
Bolivia	August 11, 1985	Kenya	September 25, 1982
Brazil	August 10, 1984	Mexico	May 16, 1985
Bulgaria	May 6, 1984	Oman	March 26, 1986
Chile	December 14, 1983	Qatar	July 23, 1983
Congo	March 8, 1983	San Marino	March 18, 1986
Cuba	October 21, 1984	Senegal	August 6, 1984
Cyprus	August 11, 1985	Soviet Union	April 17, 1986
Egypt	October 1, 1982	Sri Lanka	February 19, 1984
El Salvador	October 14, 1984	Syria	April 13, 1984
Equatorial Guinea	September 25, 1982	Togo	December 8, 1983
Ethiopia	September 25, 1982	Tunisia	May 21, 1983
Greece	August 29, 1983	Uganda	October 21, 1983
Guatemala	February 21, 1983	Uruguay	April 16, 1984

(Total: 32 States)

Other Treaties in the Fields of Copyright and Neighboring Rights Not Administered by WIPO[1]

Universal Copyright Convention

Adopted at Geneva (1952), revised at Paris (1971)

State	Date on which State became party to the Convention	
	Text of 1952	Text of 1971
Algeria[2]	August 28, 1973	July 10, 1974
Andorra	September 16, 1955	—
Argentina	February 13, 1958	—
Australia	May 1, 1969	February 28, 1978
Austria	July 2, 1957	August 14, 1982
Bahamas	December 27, 1976	December 27, 1976
Bangladesh[2]	August 5, 1975	August 5, 1975
Barbados	June 18, 1983	June 18, 1983
Belgium	August 31, 1960	—
Belize	December 1, 1982	—
Brazil	January 13, 1960	December 11, 1975
Bulgaria	June 7, 1975	June 7, 1975
Cameroon	May 1, 1973	July 10, 1974
Canada	August 10, 1962	—
Chile	September 16, 1955	—
Colombia	June 18, 1976	June 18, 1976
Costa Rica	September 16, 1955	March 7, 1980
Cuba	June 18, 1957	—
Czechoslovakia	January 6, 1960	April 17, 1980
Democratic Kampuchea	September 16, 1955	—
Denmark	February 9, 1962	July 11, 1979
Dominican Republic	May 8, 1983	May 8, 1983
Ecuador	June 5, 1957	—
El Salvador	March 29, 1979	March 29, 1979
Fiji	October 10, 1970	—
Finland	April 16, 1963	November 1, 1986
France	January 14, 1956	July 10, 1974
German Democratic Republic	October 5, 1973	December 10, 1980
Germany, Federal Republic of	September 16, 1955	July 10, 1974
Ghana	August 22, 1962	—
Greece	August 24, 1963	—
Guatemala	October 28, 1964	—
Guinea	November 13, 1981	November 13, 1981
Haiti	September 16, 1955	—
Holy See	October 5, 1955	May 6, 1980
Hungary	January 23, 1971	July 10, 1974
Iceland	December 18, 1956	—
India	January 21, 1958	—
Ireland	January 20, 1959	—
Israel	September 16, 1955	—
Italy	January 24, 1957	January 25, 1980
Japan	April 28, 1956	October 21, 1977
Kenya	September 7, 1966	July 10, 1974
Laos	September 16, 1955	—
Lebanon	October 17, 1959	—
Liberia	July 27, 1956	—
Liechtenstein	January 22, 1959	—
Luxembourg	October 15, 1955	—
Malawi	October 26, 1965	—
Malta	November 19, 1968	—
Mauritius	March 12, 1968	—
Mexico[2]	May 12, 1957	October 31, 1975
Monaco	September 16, 1955	December 13, 1974
Morocco	May 8, 1972	January 28, 1976
Netherlands	June 22, 1967	November 30, 1985
New Zealand	September 11, 1964	—
Nicaragua	August 16, 1961	—
Nigeria	February 14, 1962	—
Norway	January 23, 1963	August 7, 1974
Pakistan	September 16, 1955	—
Panama	October 17, 1962	September 3, 1980
Paraguay	March 11, 1962	—
Peru	October 16, 1963	July 22, 1985
Philippines	November 19, 1955	—
Poland	March 9, 1977	March 9, 1977
Portugal	December 25, 1956	July 30, 1981
Republic of Korea	October 1, 1987	October 1, 1987
Saint Vincent and the Grenadines	April 22, 1985	April 22, 1985
Senegal	July 9, 1974	July 10, 1974
Soviet Union	May 27, 1973	—
Spain	September 16, 1955	July 10, 1974
Sri Lanka	January 25, 1984	January 25, 1984
Sweden	July 1, 1961	July 10, 1974
Switzerland	March 30, 1956	—
Trinidad and Tobago	August 19, 1988	August 19, 1988
Tunisia[2]	June 19, 1969	June 10, 1975
United Kingdom	September 27, 1957	July 10, 1974
United States of America	September 16, 1955	July 10, 1974
Venezuela	September 30, 1966	—
Yugoslavia	May 11, 1966	July 10, 1974
Zambia	June 1, 1965	—

[1] According to the information received by the International Bureau.

[2] Pursuant to Article V*bis* of the Convention as revised in 1971, this country has availed itself of the exceptions provided for in Articles V*ter* and V*quater* in favor of developing countries.

Editor's Note: The three Protocols annexed to the Convention were ratified, accepted or acceded to separately; they concern: (1) the application of the Convention to the works of stateless persons and refugees, (2) the application of the Convention to the works of certain international organizations, and (3) the effective date of instruments of ratification or acceptance of or accession to the Convention. For detailed information in this respect, and as to notifications made by governments of certain Contracting States concerning the territorial application of the Convention and the Protocols, see *Copyright Bulletin*, quarterly review published by Unesco.

European Agreement Concerning Programme Exchanges by Means of Television Films

(Paris, December 15, 1958)

State	Date on which State became party to the Agreement
Belgium	April 8, 1962
Cyprus	February 20, 1970
Denmark	November 25, 1961
France	July 1, 1961
Greece	February 9, 1962
Ireland	April 4, 1965
Israel	February 15, 1978
Luxembourg	October 31, 1963
Netherlands	March 5, 1967
Norway	March 15, 1963
Spain	January 4, 1974
Sweden	July 1, 1961
Tunisia	February 22, 1969
Turkey	March 28, 1964
United Kingdom	July 1, 1961

European Agreement for the Prevention of Broadcasts Transmitted from Stations Outside National Territories

(Strasbourg, January 22, 1965)

State	Date on which State became party to the Agreement
Belgium	October 19, 1967
Cyprus	October 2, 1971
Denmark	October 19, 1967
France	April 6, 1968
Germany, Federal Republic of	February 28, 1970
Greece	August 14, 1979
Ireland	February 23, 1969
Italy	March 19, 1983
Liechtenstein	February 14, 1977
Netherlands	September 27, 1974
Norway	October 17, 1971
Portugal	September 7, 1969
Spain	March 11, 1988
Sweden	October 19, 1967
Switzerland	September 19, 1976
Turkey	February 17, 1975
United Kingdom	December 3, 1967

European Agreement on the Protection of Television Broadcasts

Agreement

(Strasbourg, June 22, 1960)

State	Date on which State became party to the Agreement
Belgium *	March 8, 1968
Cyprus	February 22, 1970
Denmark *	November 27, 1961
France	July 1, 1961
Germany, Federal Republic of *	October 9, 1967
Norway *	August 10, 1968
Spain	October 23, 1971
Sweden **	July 1, 1961
Turkey	January 20, 1976
United Kingdom *	July 1, 1961

Protocol

(Strasbourg, January 22, 1965)

State	Date on which State became party to the Protocol
Belgium	March 8, 1968
Cyprus	February 22, 1970
Denmark	March 24, 1965
France	March 24, 1965
Germany, Federal Republic of	October 9, 1967
Norway	August 10, 1968
Spain	October 23, 1971
Sweden	March 24, 1965
Turkey	January 20, 1976
United Kingdom	March 24, 1965

* The instruments of ratification were accompanied by reservations in accordance with Article 3, paragraph 1, of the Agreement. As to Belgium, see *Copyright*, 1968, p. 147; as to Denmark, see *Le Droit d'auteur*, 1961, p. 360; as to Germany (Federal Republic of), see *Copyright*, 1967, p. 217; as to Norway, see *ibid.*, 1968, p. 191; as to the United Kingdom, see *Le Droit d'auteur*, 1961, p. 152.

** Sweden has availed itself of the reservations contained in subparagraphs *(b)*, *(c)* and *(f)* of paragraph 1 of Article 3 of the Agreement.

Additional Protocol

(Strasbourg, March 21, 1983)

The Additional Protocol entered into force on January 1, 1985, with respect to all States party to the European Agreement on the Protection of Television Broadcasts and the Protocol to the said Agreement.

Governing Bodies and Committees

(Status on January 1, 1989)

Under Treaties Administered by WIPO

Governing Bodies and Committees of WIPO

General Assembly: Algeria, Argentina, Australia, Austria, Bahamas, Barbados, Belgium, Benin, Brazil, Bulgaria, Burkina Faso, Burundi, Cameroon, Canada, Central African Republic, Chad, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czechoslovakia, Democratic People's Republic of Korea, Denmark, Egypt, Fiji, Finland, France, Gabon, German Democratic Republic, Germany (Federal Republic of), Ghana, Greece, Guinea, Guinea–Bissau, Haiti, Holy See, Hungary, Iceland, India, Indonesia, Iraq, Ireland, Israel, Italy, Japan, Jordan, Kenya, Lebanon, Liberia (as from March 8, 1989), Libya, Liechtenstein, Luxembourg, Malawi, Malaysia, Mali, Malta, Mauritania, Mauritius, Mexico, Monaco, Mongolia, Morocco, Netherlands, New Zealand, Niger, Norway, Pakistan, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Rwanda, Senegal, South Africa,[1] Soviet Union, Spain, Sri Lanka, Sudan, Suriname, Sweden, Switzerland, Togo, Trinidad and Tobago, Tunisia, Turkey, Uganda, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Viet Nam, Yugoslavia, Zaire, Zambia, Zimbabwe (102).

Conference: The same States as above, with Angola, Bangladesh, Byelorussian SSR, Ecuador, El Salvador, Gambia, Guatemala, Honduras, Jamaica, Lesotho, Nicaragua, Panama, Paraguay, Qatar, Saudi Arabia, Sierra Leone, Somalia, Swaziland, Ukrainian SSR, United Arab Emirates, Yemen (123).

Coordination Committee: Algeria, Argentina, Australia, Austria, Bangladesh, Brazil, Bulgaria, Cameroon, Canada, Chile, China, Colombia, Côte d'Ivoire, Cuba, Czechoslovakia, Egypt, France, German Democratic Republic, Germany (Federal Republic of), Hungary, India, Indonesia, Italy, Jamaica, Japan, Kenya, Mexico, Morocco, Netherlands, Nicaragua, Pakistan, Philippines, Poland, Republic of Korea, Saudi Arabia, Senegal, Soviet Union, Spain, Sweden, Switzerland, Syria, Turkey, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Venezuela (47).

Budget Committee: Brazil, Cameroon, Canada, Cuba, Czechoslovakia, Egypt, France, Germany (Federal Republic of), India, Japan, Soviet Union, Sri Lanka, Switzerland *(ex officio)*, United States of America (14).

WIPO Permanent Committee for Development Cooperation Related to Industrial Property: Algeria, Angola, Argentina, Australia, Austria, Bangladesh, Barbados, Benin, Brazil, Bulgaria, Burkina Faso, Burundi, Cameroon, Canada, Central African Republic, Chad, Chile, China, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cuba, Cyprus, Czechoslovakia, Democratic People's Republic of Korea, Denmark, Egypt, El Salvador, Finland, France, Gabon, Gambia, German Democratic Republic, Germany (Federal Republic of), Ghana, Greece, Guatemala, Guinea, Guinea–Bissau, Haiti, Honduras, Hungary, India, Indonesia, Iraq, Israel, Italy, Jamaica, Japan, Jordan, Kenya, Lesotho, Libya, Malawi, Mali, Mauritania, Mauritius, Mexico, Mongolia, Morocco, Netherlands, New Zealand, Nicaragua, Niger, Norway, Pakistan, Panama, Paraguay, Peru, Philippines, Poland, Portugal, Republic of Korea, Romania, Rwanda, Senegal, Somalia, Soviet Union, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Togo, Tunisia, Turkey, Uganda, United Arab Emirates, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Venezuela, Viet Nam, Yemen, Yugoslavia, Zaire, Zambia, Zimbabwe (102).

WIPO Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights: Algeria, Angola, Argentina, Australia, Austria, Bangladesh, Barbados, Belgium, Benin, Brazil, Bulgaria, Burkina Faso, Cameroon, Canada, Central African Republic, Chad, Chile, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cyprus, Czechoslovakia, Denmark, Egypt, El Salvador, Fiji, Finland, France, Gambia, German Democratic Republic, Germany (Federal Republic of), Ghana, Guate-

[1] According to a decision of the WIPO Coordination Committee, not to be invited "to any meeting of WIPO and its Bodies and Unions" (see *Copyright*, 1977, p. 296).

mala, Guinea, Haiti, Honduras, Hungary, India, Israel, Italy, Japan, Jordan, Kenya, Lesotho, Malawi, Mali, Mauritius, Mexico, Morocco, Netherlands, New Zealand, Nicaragua, Niger, Norway, Pakistan, Peru, Philippines, Poland, Portugal, Romania, Saudi Arabia, Senegal, Somalia, Soviet Union, Spain, Sri Lanka, Sudan, Suriname, Swaziland, Sweden, Switzerland, Togo, Tunisia, Turkey, United Kingdom, United Republic of Tanzania, United States of America, Uruguay, Viet Nam, Yemen, Zaire, Zambia, Zimbabwe (84).

WIPO Permanent Committee on Industrial Property Information: Algeria, Australia, Austria, Barbados, Belgium, Benin, Brazil, Bulgaria, Burkina Faso, Cameroon, Canada, Central African Republic, Chad, China, Congo, Cuba, Cyprus, Czechoslovakia, Democratic People's Republic of Korea, Denmark, Dominican Republic, Egypt, Finland, France, Gabon, German Democratic Republic, Germany (Federal Republic of), Ghana, Hungary, Iran (Islamic Republic of), Ireland, Israel, Italy, Japan, Kenya, Liechtenstein, Luxembourg, Madagascar, Malawi, Mali, Mauritania, Mexico, Monaco, Mongolia, Netherlands, Norway, Philippines, Poland, Portugal, Republic of Korea, Romania, Rwanda, Senegal, Soviet Union, Spain, Sri Lanka, Sudan, Surinamc, Sweden, Switzerland, Togo, Trinidad and Tobago, Uganda, United Kingdom, United Republic of Tanzania, United States of America, Viet Nam, Yugoslavia, Zambia, African Intellectual Property Organization, African Regional Industrial Property Organization, Benelux Designs Office, Benelux Trademark Office, European Patent Organisation (74).

Governing Bodies of the Berne Union

Assembly: Argentina, Australia, Austria, Bahamas, Barbados, Belgium, Benin, Brazil, Bulgaria, Burkina Faso, Cameroon, Canada, Central African Republic, Chad, Chile, Colombia, Congo, Costa Rica, Côte d'Ivoire, Cyprus, Czechoslovakia, Denmark, Egypt, Fiji, Finland, France, Gabon, German Democratic Republic, Germany (Federal Republic of), Greece, Guinea, Holy See, Hungary, Iceland, India, Ireland, Israel, Italy, Japan, Liberia (as from March 8, 1989), Libya, Liechtenstein, Luxembourg, Mali, Malta, Mauritania, Mexico, Monaco, Morocco, Netherlands, Niger, Norway, Pakistan, Peru, Philippines, Portugal, Romania, Rwanda, Senegal, South Africa,[1] Spain, Sri Lanka, Suriname, Sweden, Switzerland, Thailand, Togo, Trinidad and Tobago, Tunisia, United Kingdom, United States of America (as from March 1, 1989), Uruguay, Venezuela, Yugoslavia, Zaire, Zimbabwe (76).

Conference of Representatives: Lebanon, Madagascar, New Zealand, Poland, Turkey (5).

Executive Committee: Austria, Bulgaria, Cameroon, Canada, Chile, Côte d'Ivoire, German Democratic Republic, India, Italy, Morocco, Netherlands, Pakistan, Poland, Senegal, Sweden, Switzerland, United Kingdom, Uruguay, Venezuela (19).

Intergovernmental Committee of the Rome Convention

Austria, Brazil, Congo, Czechoslovakia, Finland, Germany (Federal Republic of), Italy, Mexico, Niger, Norway, Sweden, United Kingdom (12).

Under Other Treaties

Intergovernmental Committee of the Universal Copyright Convention

Algeria, Australia, Austria, Brazil, Colombia, Denmark, France, Germany (Federal Republic of), Guinea, India, Israel, Japan, Mexico, Netherlands, Senegal, Soviet Union, Tunisia, United States of America (18).

High Officials of WIPO

(Status on January 1, 1989)

Director General:	Dr. Arpad Bogsch
Deputy Directors General:	Lev Efremovich Kostikov
	Alfons A. Schäfers
	Shahid Alikhan

Notifications Concerning Treaties

WIPO Convention

Accession

LIBERIA

The Government of Liberia deposited, on December 8, 1988, its instrument of accession to the Convention Establishing the World Intellectual Property Organization (WIPO), signed at Stockholm on July 14, 1967.

The said Convention, as amended on October 2, 1979, will enter into force with respect to Liberia on March 8, 1989.

WIPO Notification No. 145, of December 8, 1988.

Berne Convention

New Member of the Berne Union

LIBERIA

The Government of Liberia deposited, on December 8, 1988, its instrument of accession to the Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886, as revised at Paris on July 24, 1971, with the declaration that it avails itself of the faculties provided for in Articles II and III of the Appendix to the said Convention as so revised.

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

The Berne Convention, as revised at Paris on July 24, 1971, and amended on October 2, 1979, will enter into force, with respect to Liberia, on March 8, 1989. On that date, Liberia will become the 81st member of the International Union for the Protection of Literary and Artistic Works ("Berne Union").

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

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

Berne Notification No. 122, of December 8, 1988.

Studies

From Copyright Limitations to Copyright Infringement in Spain

Carlos Rogel VIDE*

Summary

Intellectual property. Rights of personal character or moral rights. Economic or exploitation rights. Limitations on rights. Limitations on the rights of authors. Duration and limitation of exploitation rights in the 1987 Law on Intellectual Property. Limitations and infringements. The borderline between the two in relation to the right of reproduction. The "fair use" theory. Critical comments. The "*ius usus innocui*." The legally-originating right of use and the limitations on it. "Normal use," misuse of rights and infringement of copyright.

In accordance with the provisions of Article 2 of our Law on Intellectual Property of November 11, 1987[1]—which from this point on we shall abbreviate to LIP—

Intellectual property shall comprise rights of personal and economic character which shall confer on the author the full control over and the exclusive right to the exploitation of the work, without any limitations other than those specified in the Law.

The *rights of personal character, or moral rights*, are listed in LIP Article 14 and are the following: non-disclosure or disclosure; right to be named or to remain anonymous; right to recognition of authorship and to integrity of the work; right to alter the work; right to withdraw the work; and, finally, right of access to the sole or a rare copy of the work.

Being regarded and treated as or similarly to personality rights, the rights of personal character or moral rights generally, like them, are unrenounceable and inalienable in character.[2]

The proximity of the above-mentioned categories is indeed striking, and, if looked at carefully, the so-called moral rights—in their essence and in their origins—are nothing other than specific concretions of traditional personal rights such as privacy, name, honor or reputation, so much so that, from that point of view, it could be said that they existed prior to the LIP, and hence before such rights were recognized by international legal provisions.[3]

That event, according to Ulmer, occurred under the direct influence of Piola Caselli at the Rome Conference in 1928, as a result of which an Article 6[bis] was written into the Berne Convention for the Protection of Literary and Artistic Works, paragraph (1) of which reads as follows:

Independently of the author's copyright, and even after transfer of the said copyright, the author shall have the right to claim authorship of the work, as well as the right to object to any distortion, mutilation or other modification of the said work which would be prejudicial to his honor or reputation.[4]

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* Professor of Civil Law, University of Valladolid, Spain.

[1] Approved by the Congress of Deputies, sitting in plenary, on October 27, 1987. See the English translation of that Law in *Copyright*, May and June 1988, inserts *Laws and Treaties*, Text 1-01.

[2] On the unrenounceable and inalienable condition of personality rights in doctrine as reflected in Organic Law No. 1 of May 5, 1982, on the civil law protection of the right to honor, to personal and family privacy and to one's own likeness, the reader may refer to Rogel Vide, "Bienes de la personalidad, derechos fundamentales y libertades públicas," publications of the *Royal College of Spain*, Bolonia, 1985, and in particular pp. 48-50, 66-67 and 169-171.

[3] On the various stances encountered in our doctrine prior to the LIP on the subject of whether or not copyright is a personality right, see Rogel Vide, *op. cit.*, pp. 55, 56, 69, 70, 158 and 159.

An interesting, albeit somewhat outdated article on the subject is that by Pérez Serrano entitled "El derecho moral de los autores," in *Anuario de Derecho Civil*, 1949, pp. 7 *et seq.* Pérez Serrano starts by speaking of an "unfelicitous nomenclature" in relation to the so-called moral rights of authors, saying on p. 7 that

> "...for from a certain standpoint, there is either a redundancy inasmuch as every right should be moral, or, worse, the heretical contention that there are in the field of intellectual property rights that are not moral, or in one word immoral."

From the same year, see Rodríguez-Arias, "Naturaleza jurídica de los derechos intelectuales," in *Revista de Derecho Privado*, 1949, pp. 747 *et seq.* and 830 *et seq.*

Finally, authoritative reflections that run counter to the argument of intellectual property rights being personality rights are to be found in Lacruz's preface to the work by Bondía Román entitled *Propiedad intelectual. Su significado en la sociedad de la información (La nueva Ley de 11 de noviembre de 1987)*, Madrid, Trivium, 1988 (see pp. 14 and 15).

[4] Ulmer actually says, in "The Federal Republic of Germany and the Berne Union," in *Copyright*, 1986, pp. 83 *et seq.*, that

In addition to the personality rights or moral rights referred to, there are, as we said, the *economic or exploitation rights* of authors, and on them LIP Article 17 says the following:

> The author shall be invested with the exclusive exercise of the rights pertaining to the exploitation of his work in whatever form, and especially the rights of reproduction, distribution, communication to the public and alteration, which may not be exercised without his authorization except where this Law so provides.[5]

These are then exploitation rights, or the right to exploit the work if preferred, whose character is that of a subjective entitlement, a legal power *par excellence* embodying a uniform set of rights—reproduction, distribution, communication to the public, transformation—the exercise and defense of which are the responsibility of their owner.

They are powers, faculties, *rights* in a word, yet they are neither absolute nor unlimited, but *subject to limits*, including those already brought to our notice by some of the LIP provisions referred to so far—Article 2: "...without any limitations other than those specified in the Law," and Article 17: "...except where this Law so provides."

The fact is that a subjective right, any subjective right, is framed and on occasion also demarcated by the limitations that qualify and fix it, which may be of different types:

First, as mentioned by Diez-Picazo and Gullón,[6] there are the limitations that could be called natural limitations inasmuch as they derive from the inherent nature of each right and from the manner in which it is conceived, which is determined by the economic and social function to be performed by means of it. The right is defined in the Law in relation to its nature, and the legal definition already presupposes the setting of its boundaries or limits.

Secondly, there are the limitations that may arise from the collision of rights, due to confrontations between rights belonging to different persons.

Thirdly, there are the so-called generic or institutional limitations, which are based on the following considerations:

– the exercise of the right has to take place in a manner consistent with the ethical convictions prevailing in the community;

– the exercise of a right has to be reconciled with the economic or social purpose for which it has been granted or attributed to its owner.

The first consideration leads to the requirement that the exercise of a subjective right be in keeping with the dictates of good faith. The second calls for the prohibition of the abuse of the right.

Finally there are the time limitations on the rights, and among them the possibility of their lapse after a specific period of time has expired.

The above-mentioned *limitations* operate without doubt *in relation to the rights of the authors*, that is, in relation to their "intellectual property" rights in their works—which the rights were called before and which they can and also must be called now, inasmuch as the specific law on the subject carries that in its title, apart from which intellectual property is also spoken of in the Civil Code[7] and, more importantly, in Article 149 of the Constitution itself.[8]

As property, pursuant to Article 33(2) of the Constitution, "the social function of these rights shall define their content, in accordance with the laws."

As intellectual property, bearing in mind the tensions between author and society[9] and the need for dissemination of and access to culture, the latter being written into Article 44(1) of the Constitution ("the authorities shall promote and ensure access

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"...the principal merit of the Rome Conference...was its acknowledgment of moral rights in Article 6bis of the Convention... The basis was an Italian proposal for which Piola Caselli must take a considerable part of the credit. The records of the Conference report that the proposal was greeted with enthusiasm by most of the delegations. The German Delegation likewise had no problem in acceding to that proposal. The protection of personal interests had long since been recognized in German case law and legal writings... Theory in Germany was influenced by the concept, advocated in particular by Gierke, that copyright was essentially a right of personality. Although this theory was unable to impose itself in the overall concept of copyright against the concept advocated by Kohler of the rights in intangible property, it nevertheless clarified basic characteristics of copyright."

An authoritative commentary on Article 6bis of the Berne Convention is to be found on pp. 45 *et seq.* of the *Guide to the Berne Convention*, WIPO, Geneva, 1978, written by Claude Masouyé, the then Director of the Public Information and Copyright Department of the International Bureau of WIPO.

[5] In fact it "so provides" in the subsequent articles, namely Article 18 on reproduction, Article 19 on distribution, Article 20 on communication to the public and Article 21 on transformation of the work.

[6] Diez-Picazo and Gullón, *Sistema de Derecho Civil*, Vol. I, Madrid, Tecnos, 1982, p. 458.

[7] Articles 428 and 429 of the Civil Code, which are to be found in Chapter II of Part IV of Book II (the Chapter is on "Intellectual Property"), and which are neither expressly departed from by the LIP nor in frontal opposition to it, read as follows:

Article 428: "The author of a literary, scientific or artistic work shall have the right to exploit it and dispose of it as he sees fit."

Article 429: "The Law on Intellectual Property shall specify those persons to whom that right shall belong, the manner of its exercise and the duration of its validity. In cases that are not provided for or settled in the said special Law, the general rules laid down in the present Code concerning property shall apply."

[8] Article 149(1) of the Constitution: "The State shall have exclusive competence in the following areas: ...(ix) legislation on intellectual property..."

to culture, to which all shall be entitled"[10]), as well as having limitations on their content and exercise,[11] the rights have limitations in time, resulting in the lapse of the exploitation rights or privileges after specific periods, whereupon the intellectual works fall into the public domain in accordance with LIP Article 41.[12]

It can thus be said that the rights of authors have the limits and reservations peculiar to any subjective right, those that apply to property, and finally also their own specific limits, provided for and regulated in the LIP.[13]

Indeed Title III of Part I of the *1987 Law on Intellectual Property* deals in with the *duration and limitations of exploitation rights* in intellectual works.

Chapter I of the above Title refers to "Duration," summarily laying down, as one might expect, limitations in time, the most significant of them being that of 60 years *post mortem auctoris*, to be found in Article 26,[14] while Chapter II (Articles 31 to 40) has to do specifically with "Limitations."

Briefly, the limitations in Chapter II—which relate to the various exploitation rights and specify circumstances in which intellectual works may be freely used by third parties—are the following:

– reproduction of a work for evidence in a legal proceeding or for private use (Article 31);

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[9] Forns published an article in 1951, entitled "Derecho de propiedad intelectual en sus relaciones con el interés público y la cultura," in *Anuario de Derecho Civil*, 1951, July–September, pp. 985 *et seq.*, in which among other things the author says the following:

"...since the first national laws, there have been two recognizable fundamental trends, depending on whether the rights of authors are primarily focused upon, with the public interest being somehow dovetailed in with them, or whether on the other hand the public interest is accorded prime importance, and an effort is made to adapt copyright to it. The latter approach predominates in Anglo–American legal conceptions, whereas the former corresponds to what we could call the Latin conception" (p. 993).

[10] On intellectual property and its relation to the principle of access to culture, see Bondia Román, *op. cit.*, pp. 96 *et seq.*

[11] Article 40 of the LIP says for instance that

"If, on the natural or declared death of the author, his successors in title exercise his right of non–disclosure of the work in a manner contrary to the provisions of Article 44 of the Constitution [Article 44 of the Constitution: (1) The authorities shall promote and safeguard access to culture, to which all shall be entitled. (2) The authorities shall promote science and scientific and technological research in the public interest], the court may order appropriate measures at the instigation of the State, the Autonomous Communities, local corporations, public institutions of cultural character or any other person having a legitimate interest."

[12] LIP Article 41:

"The expiration of the exploitation rights in works shall cause them to fall into the public domain.

Works in the public domain may be used by any person provided that the authorship and integrity of the work are respected in the manner specified in Article 14(3) and (4)."

[13] Limitations and conditions deriving to a greater or lesser extent from the collision of rights belonging to different persons are to be found in various articles of the LIP. For instance, Article 7(2) provides as follows in relation to works of joint authorship:

"Disclosure and alteration of the work shall require the consent of all the coauthors. In the absence of agreement, the courts shall decide.

Once the work has been disclosed, none of the joint authors may without justification withhold his consent to its exploitation in the manner in which it was disclosed."

Article 14 for its part, in connection with moral rights, provides that:

"The author shall be invested with the following unrenounceable and inalienable rights:

...(v) the right to alter the work subject to respect for the acquired rights of third parties and the protection requirements of goods of cultural interest;

(vi) the right to withdraw the work from circulation for reasons of changed intellectual or moral convictions, after indemnification of the holders of exploitation rights for damages and prejudice..."

Prior to the entry into force of the Law on Intellectual Property, and with reference to authors such as Danvila and López Quiroga, I myself devoted some pages to a study of circumstances under which an author's ownership is limited by such rights in his work as may accrue to other persons, concentrating on portraits. See Rogel Vide, *Autores, coautores y propiedad intelectual*, Madrid, Tecnos, 1984, pp. 66 *et seq.*

[14] Article 26 reads:

"The exploitation rights in the work shall last during the lifetime of the author and 60 years after his natural or declared death."

Articles 27 *et seq.*, for their part, provide under particular circumstances—works disclosed after the author's death, pseudonymous or anonymous works, collective works—for a period of 60 years following the date of disclosure of the work.

With regard to computer programs, Article 97 says that

"The duration of the exploitation rights in a program shall be 50 years from January 1 of the year following its publication, or following its creation if it has not been published."

As for the so–called derived or neighboring rights, belonging to performers, producers of phonograms or audiovisual recordings and broadcasting organizations, Articles 106, 111, 115 and 117 set their protection at 40 years, variously calculated according to circumstances.

In addition there are periods provided for the protection of ordinary photographs (25 years—Article 118) and specific editorial productions (10 years—Article 120).

Finally we should not overlook the transitional provisions of the LIP with respect to rights acquired under the earlier legislation.

It should moreover be mentioned that, throughout the 19th century in Spain, a bitter controversy raged continuously between the partisans of intellectual property in perpetuity and those of its limitation in time, which was reflected in the provisions enacted on the subject during that century (see in this connection Rogel Vide, *op. cit.*, pp. 41 *et seq.* More extensive coverage is to be found in Alvárez Romero, "El derecho de propiedad intelectual. Su temporalidad," in *Estudios de derecho civil en honor del profesor Castán Tobeñas*, Pamplona, Eunsa, 1969, Vol. V, pp. 7 *et seq.*).

– inclusion of another's work in one's own by way of quotation[15] or for analysis, comment or critical assessment (Article 32);

– exploitation of studies and articles on topical subjects disseminated by the mass communication media; lectures, addresses, court pleadings and other works of the same character that have been delivered in public; speeches made at parliamentary sessions or meetings of public bodies (Article 33);

– exploitation of works capable of being seen or heard in connection with the reporting of current events (Article 34);

– exploitation of works permanently located in parks, streets, squares or other public places (Article 35);

– possible uses derived from authorized communications to the public (Article 36);

– free reproduction of works by museums, libraries, film libraries, newspaper libraries or archives, under certain conditions and in certain circumstances (Article 37);

– performance of musical works in the course of official State events, events instituted by public bodies and religious ceremonies (Article 38);

– parodies of disclosed works (Article 39);

– finally, the possibility of preventing the exercise of the right of non–disclosure of the work, when such exercise is claimed to be at variance with the provisions of Article 44 of the Constitution (Article 40).

By virtue of the above–mentioned *limitations*, certain intellectual works may, under certain conditions and circumstances, be reproduced, transformed, distributed or communicated to the public by third parties without any authorization being obtained or indeed required from their authors for the purpose.

So, exceptionally, such acts of third parties are lawful, and therefore do not constitute *infringements* of the rights of authors such as would be punishable by law.[16]

Ultimately, and according to my understanding, the question is as follows:

The exploitation rights of authors are subject to limitations that allow them to be exercised or used to a certain extent by third parties without the authors' consent, without the acts in question constituting infringements of the same rights.

In my opinion, the limitations, being restrictive of rights, have themselves to be interpreted restrictively, and when the acts of third parties persist without there being any reason for the continued application of the limitations, then we are in the presence of infringements of the authors' rights.

The *borderline* is by no means clear—desirable though such clarity is—and it is necessary to make a careful study of where the *limitations* on the exploitation rights end and, logically, the *infringements* begin.[17]

To that end, and selecting for consideration the one question of the faculty or *right of reproduction* accruing to the author, we should focus our attention on the doctrine or *theory of "fair use,"* a concept that originated in North America but is tending to spread to other countries.[18]

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[15] In this connection see Rogel Vide, "Notas sobre el derecho de cita de obras literarias o artísticas," in *La Ley, Revista Jurídica Española*, Madrid, Thursday October 4, 1984.

[16] In that case I do not quite understand the wording of Article 534*bis*(a) of the Criminal Code—as emerging from Organic Law No. 6 of November 11, 1987, which amended Section III of Chapter 4 of Part XIII of Book II of the Code—when it makes any person liable to a fine of 30,000 to 600,000 pesetas who deliberately reproduces, distributes or communicates to the public an intellectual work without the consent of the owners of the corresponding intellectual property rights or their assignees; perhaps it should have been qualified by what has already been said in the meantime, namely "when such consent is a matter of principle."

There is all the more reason for this if one considers that, when one of the above acts is performed for profit or with the intention of infringing the author's right of disclosure, the sanctions are increased by virtue of the provisions of Article 534*bis*(b)(1) of the Criminal Code, which with reference to our present concerns says that

> "Any person shall be punished with the sanction of major detention and a fine of 50,000 to 1,500,000 pesetas who performs any of the acts specified in the foregoing Article, where any of the following circumstances obtain: (a) the act is performed for profit–making purposes; (b) the author's right of disclosure is infringed."

[17] In "A Few Aspects of the Legal Problems Posed by Videoreproduction: the Betamax Case," in *Revue internationale du droit d'auteur* (RIDA), April 1981, pp. 2 *et seq.* (the quotation is on pp. 42 and 44), Nabhan says:

> "Unable to keep pace with the invincible upsurge of technology, the law shows its impotence.
>
> Examination reveals that most existing copyright legislations are strikingly outmoded in character. Everywhere, one is lost in conjecture as to the usefulness of concepts such as 'fair use' or 'private use' for miraculously drawing the line between what is permitted the public and what comes under the monopoly of the owner of copyright. But the debates often end up in an impasse and are condemned to sterility."

[18] A contributing factor in this trend may have been the echoes and repercussions throughout the world that followed the notorious Betamax case in which basically the area of application of the so–called fair–use concept was established.

Bondía Román, who quotes a wide range of legal writers of various complexions on the subject (*op. cit.*, p. 261, note 62), summarizes it as follows (*op. cit.*, pp. 261 and 262):

> "In 1977, Universal Studios and Walt Disney Productions instituted proceedings before the California District Court against Sony Corporation, the manufacturer of the Betamax video recorder. The essence of the action was the fact that the Betamax machine had been launched on the market to promote the private use of copies of television

On this concept Section 107 of the United States Copyright Act of October 19, 1976, says the following[19]:

... the 'fair use' of a copyrighted work...for purposes such as criticism, comment, news reporting, teaching, ...scholarship or research, is not an infringement of copyright.

On the basis of the above provision, it is becoming an accepted fact that fair use is a limitation on the author's right of reproduction in relation to his work, and at the same time a general principle serving to inspire a considerable number of specific limitations.

Thus it is that we may read the following in the *WIPO Glossary of Terms of the Law of Copyright and Neighboring Rights*[20]:

Fair use constitutes, in the Copyright Law of the United States of America, in addition to special exceptions, a general limitation on the exclusive right of the owner of copyright. It evolved as a judicial doctrine and was given statutory recognition in Section 107 of the new Copyright Law of 1976. Fair use is allowed for purposes such as criticism, commentary, news reporting, teaching, scholarship or research. It is to be determined by considering factors such as whether the use is of a commercial nature or is for non-profit educational purposes, the nature of the work protected by copyright, the amount and substantiality of the portion used in relation to the work as a whole, and the effect of the use upon the potential market for, or value of, the work. Fair use is a sort of free use of the work.[21]

The same tendency to regard fair use as a limitation of general character and coming into general use can now be observed to some extent among French[22] and Spanish[23] as well as American authors.

I myself have *some critical comments* to make on the subject.

In terms of Spanish law at least, fair use seems to me to be more than just a limitation, rather a palliative, a moderating factor or a limitation on the limitations themselves; let us however proceed in stages and examine the matter in some detail.

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broadcasts including films that were the property of the plaintiffs, which was an infringement of the (United States) Copyright Act. The studios for their part contended that they were not adequately compensated for home recordings, which adversely affected the sales of prerecorded tapes and lowered the audience ratings of television films. Sony won its case in the District Court, which held that there should be no limitation on recordings made at home that were not intended for commercial use (ruling of October 2, 1979). This ruling was set aside by the Ninth Circuit Appeal Court of San Francisco, which held that the 'fair use' doctrine could not apply to home video recordings (ruling of October 19, 1981). Nevertheless, Sony Corporation in turn appealed to the Supreme Court, which, in a decision handed down on January 17, 1984, ruled that the use of the Betamax video recorder for the purpose of recording protected television broadcasts was a 'fair use,' and as such was not an unlawful activity constituting an infringement of copyright."

For a detailed account of the facts, with a commentary on the 1979 ruling of the California District Court, see Nabhan (*op. cit.*).

The subsequent rulings on the case have been extensively recorded, and may be consulted in RIDA (for the 1981 ruling, pp. 112 *et seq.* of the April 1982 issue, and for the 1984 ruling, pp. 178 *et seq.* of the October 1984 issue).

[19] That Law (No. 94-553), which constituted a general revision of the Copyright Law (Title 17 of the United States Code), was published and may be consulted, together with observations by Bernard Korman and Edward M. Cramer, in the special October 1977 issue of RIDA.

[20] The WIPO *Glossary of Terms of the Law of Copyright and Neighboring Rights* was published in Geneva in 1980 and, according to the Director General of WIPO in the introduction to it,

"Essentially, it is the work of Dr. György Boytha, Head of the Division for Copyright Development Cooperation Projects of WIPO."

The passage quoted is to be found on p. 114.

[21] A similar but not identical term is "fair dealing," which in the *WIPO Glossary* quoted earlier is defined as follows (p. 112):

"Fair dealing ['acte loyal'; 'acto leal']: According to most of the copyright laws which follow the Anglo-Saxon legal approach, a general exception to copyright protection concerning uses of works for certain purposes determined by law (e.g., Australia, Sees. 40 to 42; Canada Sec. 17(2)(a); India, Sec. 52(1)(a); UK, Sec. 6(1) to (3); etc.). Generally it is understood as meaning kinds of use not conflicting with a normal exploitation of the work and not unreasonably prejudicing the copyright owner's legitimate interests. Fair dealing, as provided for in the respective laws, is free of any payment and is not subject to authorization. In the United States of America, a similar general exception is provided for in the case of 'fair use'."

[22] Salczer-Sánchez, in "Copyright and the Requirements of Teaching" (RIDA, October 1981, pp. 136 *et seq.*), with reference to the United States Law of October 19, 1976, says on p. 152 that the Law

"contains provisions limiting the exercise of authors' rights in works used for teaching purposes. In the first place, the reproduction of a work is exempted from exercise of the exclusive right when such reproduction constitutes fair use of the work (Sec. 107), it being specified that reproduction for teaching purposes, including multiple copies for classroom use, can be considered as fair use."

[23] Forns, *op. cit.*, p. 1008:

"If we take a glance at the various national laws to see what practical application there has been of the legal restrictions in the various countries, we will find that the majority of them allow... *(b)* the proper use of quotations, summaries or paragraphs excerpted for private studies, commentaries, critical reviews, etc., which the Anglo-Saxons know by the graphic name of 'fair use'."

More recently, Bondía Román says (*op. cit.*, p. 255):

"Most national legislation contains exceptions to the right of reproduction based on 'fair use,' '*usage privé*,' or '*uso privado*'."

In passing, a certain amount of confusion will be noted in the Bondía text in the use of terms, which are treated as equivalent without actually being so. In French, "fair use" is equivalent to "usage loyal," and not to "*usage privé*," which would be equivalent to "private use" in English (see *WIPO Glossary*, pp. 114 and 198).

The equivalence of "fair use," "*usage loyal*" and "*uso leal*" is moreover used by Bondía himself (*op. cit.*, p. 259).

As we said earlier, by virtue of LIP Article 17,

The author shall be invested with the exclusive exercise of the rights pertaining to the exploitation of his work in whatever form, and especially the rights of reproduction..., except where this Law so provides.[24]

Under Article 18,

Reproduction sball be taken to mean the incorporation of the work in a medium that enables it to be communicated and copies of all or part of it to be made.

Knowing the above, we also know that tbe right in question is subject to certain limitations, specified in LIP Articles 31 *et seq.*, to which we have briefly referred already.

So what can be the justification for those limitations, their *raison d'être*?

They could first bc thought of—as I for one have already thought of them—as a product of the specific limitation on the property right constituted by the *ius usus innocui*, or right of non-prejudicial use, itself a product of the principle that could be expressed by the rule or aphorism *quod tibi non nocet et alii prodest, non prohibetur* (what does not harm you and benefits another is not forbidden).

The *ius usus innocui* was studied by López de Haro in the *Revista de Derecho Privado* of January 1920,[25] in which he says *inter alia* the following[26]:

Ius means that a right is involved, not an authorization or allowance.

Usus implies an act in relation to something belonging to another and, as qualified by *ius*, not a frivolous or abusive act.

Innocui means that the use does not cause a prejudice, that it is harmless, innocuous or inoffensive...

Consequently, the *ius usus innocui* is the right to make use of something belonging to another, to make use of it for reasons of utility, without the proprietor suffering any prejudice thereby.

Ius in conjunction with the concept of utilization suggests appropriation or consumption.

Formulated thus, the right that we are concerned with, in spite of its non-prejudicial character, comes across as subverting the legal order, since taking advantage as of right of something that belongs to someone else has all the appearances of an infringement of property.

Nevertheless, it is something that is happening every day, and we look on it as a thing so natural that if we were not to accept it we would be criticizing every act of opposition as an abuse of property rights.

In all countries and at all times, where the owner of a thing does not make use of what that thing produces, the person who utilizes it is regarded as exercising a right subject to no formality.[27]

Up to this point, as López de Haro maintains, the right of non-prejudicial usc could servc as a point of reference and as justification for the limitations on the right of reproduction of authors supposedly covered by the concept of fair use. And yet one is bound to acknowledge that there are things that are not compatible with that contcntion. Thc following occur to me:

– the repeated reproduction of thc work, which, in vicw of the progress of technology, is made possible by the limitations on authors' rights written into

[24] To my way of thinking, this Artiele has to be interpreted in the light of the provisions of Article 9(1) and (2) of the Berne Convention for the Protection of Literary and Artistic Works (signed by Spain at its inception in the 19th century and most recently revised in Paris on July 24, 1971; instrument of ratification deposited by Spain on July 2, 1973. BOE, October 30, 1974). Article 9(1) and (2) of the Convention reads as follows:

"(1) Authors of literary and artistic works protected by this Convention shall have the exclusive right of authorizing the reproduction of these works, in any manner or form.

(2) It shall be a matter for legislation in the countries of the Union to permit the reproduction of such works in certain special cases, provided that such reproduction does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author."

An authoritative commentary by Claude Masouyé on these provisions is to be found in the *Guide to the Berne Convention*, *op. cit.*, pp. 54 *et seq.*:

"Laws, for example the Tunis Model Law [Tunis Model Law on Copyright for Developing Countries, adopted by the Committee of Governmental Experts convened by the Tunisian Government in Tunis from February 23 to March 2, 1976, with the assistance of WIPO and Unesco], often allow the reproduction of a work for 'the user's personal and private use.' ... In principle, [the expression] does not cover any collective use and it assumes that the reproduction is not done for profit."

[25] López de Haro, "El '*ius usus innocui*'," in *Revista de Derecho Privado*, 1920, January 1920, pp. 18 *et seq.*

[26] López de Haro, *op. cit.*, p. 18.

[27] "Clearly," says López dc Haro (*op. cit.*, pp. 18 and 19), "the proprietor only stops using what is of so little value that it is not worthy of his interest or of the expenditure of his remaining assets and earnings, whereupon it becomes, as Degroully says ('*Le droit de glanage*'), the heritage of the poor...

This miserable heritage of the poor is a resource whose exploitation requires no action to be taken, a natural right that cannot be claimed in the courts, but is conceded and respected inasmuch as it is a legal institution...

Usage has raised it to the rank of customary law, giving it thc character in every case of a legitimate act, except where specifically provided otherwise."

In the search for precedents to the *ius usus innocui*, and rclying in Nicolay (*Historia de las creencias, usos y costumbres*, Vol. III, p. 173), López de Haro makes the following very pertinent comment (*op. cit.*, p. 19):

"When speaking of the perquisites of the people, we cannot overlook 'the gleanings,' that is, 'the sheaves of the poor.' The Scriptures tell us that Boaz, having met Ruth gleaning in his field, said to his reapers: 'Let her glean even among the sheaves, and reproach her not; and let fall some of the handfuls of purpose for her, and leave them that she may glean them, and rebuke her not.'

Pontiffs also intervened on various occasions on behalf of the poor, above all to assure them of their gleaning rights. We would mention among others the decrees of Benedict XIV, dated May 22, 1742, and May 17, 1751."

LIP Articles 31 *et seq.*, is bound to be in some way prejudicial to the authors[28];

– in another context, and according to the foremost legal writers,[29] non–prejudicial use is determined by the goodwill of the proprietor, who theoretically can lawfully prohibit others from the use, utilization or exploitation, however insignificant, of his property, and who moreover on many occasions, I maintain, will want to do just that.

Things being as they are, the most accurate description of the matter at issue seems to me to be the following:

The right of reproduction inherent in the right of exploitation, that is, in the author's intellectual property right in his work, is limited—under specific circumstances and conditions—by the accrual to certain third parties of a right of limited enjoyment of another's intellectual work, which could be considered a sort of *legally–originating right of use* similar but not identical to the *ius usus innocui*, inasmuch as it can be other than *innocuus* and does not derive its origin from a general principle of law, but rather from specific legal provisions.[30]

This possibility or power, this right if you like,[31] is in any case subject to *limitations* of its own,[32] one of which is that it has to be exercised "fairly" and

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[28] In this connection, Claude Masouyé, commenting on Article 9(2) of the Berne Convention, says the following (*Guide to the Berne Convention, op. cit.*, p. 56):

"It is little more than child's play to make high quality recordings of both sound and vision, either from discs or cassettes (re–recording) or off the air (television as well as radio). The idea of a limitation to private use becomes less effective when copies can be made privately in large numbers. If practical considerations do not offer copyright owners and their successors in title a chance to exercise their exclusive right of reproduction, it has been suggested that a global compensation might be provided for them and that the money might be raised by imposing a levy on the material (tape, etc.) on which the sounds and images are fixed, as well as on the apparatus used for fixing."

A similar, definitive pronouncement was made by Wilhelm Nordemann in the exposé entitled *Lizensierung, Erhebung und Verteilung der Einnahmen bei reprographischen Rechten* (Licensing and Royalty Collection and Distribution in Respect of Reprographic Rights), which he presented at the International Copyright Symposium held in Heidelberg on April 24 and 25, 1986, in honor of the Centenary of the Berne Convention (the proceedings of the Symposium were published in Munich in 1986 by J. Schweitzer. Nordemann's original is in German, accompanied by a summary in French, from pp. 138 and 139 of which the following has been translated).

"Photocopying," says Nordemann, "affects normal exploitation (examples being scientific reviews, valuable books and musical works) in a large number of cases to say the least. It is bound to constitute an encroachment on the legitimate interests of the author, as the effect of its immense growth in popularity has been to introduce a new means of making use of protected works.

Consequently, a legal stance that reserves exclusive rights for the author in fields including that of non–public reproduction is perfectly consistent with the Berne Convention...

What is incompatible with the Paris Act of the Berne Convention, therefore, is the fact that some national legislation allows photocopying for private use or for other internal uses without making any provision for the author's remuneration..."

On the problems raised by the excessive private photocopying—both potential and real—of protected works, see Rogel Vide, "El vídeo y la propiedad intelectual," in *La Ley. Revista Jurídica Española*, Madrid, Thursday and Friday, January 27 and 28, 1983 (especially Friday, pp. 4 *et seq.*), and the authors quoted therein.

Finally, also with special reference to video, see Bondía Román, *op. cit.*, pp. 251 *et seq.*

[29] See as being generally representative Diez–Picazo and Gullón, *op. cit.*, Vol. III, Madrid, 1981, p. 185.

[30] On the right of use, see Rams, *Uso, habitación y vivienda familiar*, Madrid, Tecnos, 1987.

As far as our subject is concerned, Joaquín Rams says the following:

"The real difference between usufruct and use lies in the fact that the exercise of the latter is '*non usque ad compendium, sed ad usum.*' [p. 22]

The specific structure of the right of use is conducive in certain circumstances to the use of the institution precisely for intellectual and industrial property, in view of the fact that it allows such rights to be exercised simultaneously and coincidentally by the proprietor and by the user, without the latter being able in turn to assign to others the exploitation of the subject matter of the initial assignment, whether for a consideration or free of charge. [pp. 42 and 43]

Reference to the creative sources of the usufruct presupposes acceptance of the fact that the rights of use and habitation can come into being by operation of law..." [p. 51]

So much for Rams. In another context, we would venture to say that copyright itself, according to what Rodríguez–Arias tells us, has been considered a right of use.

What Rodríguez–Arias actually says (*op. cit.*, p. 754), referring to González Oliveros (*Los principios filosóficos de la propiedad intelectual*, 1920, p. 72), is that

"...there are those who consider it [copyright] a right of use, Putter and others among them. Yet no more than society reserves ownership does the author stop receiving the industrial product of his work, nor is there any reason for the author to be able to reap only such benefits as are necessary for the maintenance of his family; nor, finally, is the author's right an utterly personal right, not susceptible of alienation, as is use."

On the basis of the foregoing, and indeed by definition—given the existence of authors who retain their exploitation rights—we are not in the presence of works that have fallen into the public domain, regarding which one could claim—as one does claim in such cases—a clear right of use for the general public (on the public domain and intellectual property, see Rogel Vide, *Autores, coautores y propiedad intelectual, op. cit.*, pp. 94 *et seq.*).

[31] Reflecting on subjective rights in general, Diez–Picazo and Gullón (*op. cit.*, Vol. I, Madrid, 1982, pp. 439 and 440) say that

"...an individual interest may be protected by the mere operation of a provision. The law that sets a high price on the import of foreign goods is one that protects the interests of domestic manufacturers of the product concerned, but it cannot be said that those manufacturers then have a right...

"normally," in other words in a manner consistent with the dictates of good faith.

So, having reached this point and with all our legal knowledge to hand, we have no need at all for the much-used fair use theory, which, let it be said in passing, regardless of its soundness or unsoundness,[33] is not set down in any legal text in force in Spain and owes its origin to a country with a legal system very different from our own.

Likewise with our legal knowledge to hand, we can explain the matter straightforwardly by invoking, for the means of action, for the rights accruing to third parties—and not, let it be understood, to the author—concepts such as that of normal use advocated by Diez-Picazo and Gullón with reference to Stolfi.[34]

> The rights have to be exercised [says Stolfi] according to their natural purpose and in a normal manner in such a way that others are not caused any appreciable harm thereby.[35] To determine normality of use, it is necessary to take into consideration the general state of social customs and relations

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> The fact of having a right becomes a factor justifying a range of acts which under other circumstances would be unlawful, and which by virtue of that fact alone are permissible. So the right is above all something that allows and enables the person lawfully to proceed or act in a particular way. Consequently the only notion that correctly defines the subjective right is that of 'power'."

Oddly enough, with reference to fair use, Nabhan (*op. cit.*, p. 14) says that

> "the effect of 'fair use' will be to legitimize the activity of the user by shielding him from prosecution for infringement proceedings by the copyright owner."

[32] For instance, by virtue of LIP Article 32, I have the right to include and incorporate in my work fragments of the works of others—whether or not those others want me to—but only insofar as

> "the works concerned have already been disclosed and...are included by way of quotation or for analysis, comment or critical assessment."
>
> "Such use," moreover, Article 32 continues, "may only be made for teaching or research purposes and to the extent justified by the purpose of the inclusion, and the source and the name of the work used shall be stated."

Also, this time by virtue of LIP Article 31, works already disclosed may be reproduced without the author's authorization for the private use of the copier, but only insofar as the copy is not used for either collective or gainful purposes, subject, according to the provisions of LIP Article 25, to the authors being

> "entitled to a share of compensatory remuneration for such reproduction of the said works as is effected exclusively for personal use by means of non-typographical technical apparatus."

[33] In my opinion—as I have already said—the "fair use" theory, as such, is incorrectly interpreted as a limitation of copyright.

It remains symptomatic and consistent with my own opinion that Bondía Román (*op. cit.*), basing himself on very recent English-writing authors like Tseng, Brittin, Greenspan and Scott Glover, whom he quotes in note 58 on p. 260, does not refer to "fair use" as an actual limitation, and indeed says the following on pp. 259 and 260:

> "'Fair use' has been defined by Anglo-Saxon legal writers as 'a privilege granted to the general public to make reasonable use of a work protected by intellectual property without the consent of its owner, notwithstanding the monopoly in his work that accrues to him'."

In that case I would venture to ask what else "privileges granted to the general public" can be, between ourselves, but faculties or rights?

It should also be borne in mind that copyright itself originated as a "privilege."

In that connection Rodríguez-Arias (*op. cit.*, p. 747) says that

> "it is well known that the latter [copyright]—the origins of which are to be found in the 'privilege'—induced the legislator, in view of the urgent need for efficacious legal protection that would place it beyond the reach of the sometimes arbitrary provisions of royal dispensation, to ensure its protection within the framework of property, an institution that offered it greater security for the observance and normal development of the right."

In this connection see Rogel Vide, *op. cit.*, pp. 24 *et seq.*, which shows that the first privileges were granted to booksellers and printers, not to authors.

Following a similar line of thought, but using terminology more familiar to us, Nabhan, quoting Bell, says the following (*op. cit.*, p. 14, note 7):

> "Fair use has been defined in particular as 'a privilege in other than the owner of the copyright to use the copyright material in a reasonable manner without his consent, notwithstanding the monopoly granted to the owner'."

[34] Diez-Picazo and Gullón, *op. cit.*, Vol. III, 1981, p. 183.

[35] The normal use theory, according to Bonfante (*Las relaciones de vecindad*, Spanish translation by Alfonso García Valdecasas, Madrid, 1932, p. 29), originated in England at the beginning of the 19th century.

> "This theory is inspired," Bonfante goes on (*op. cit.*, p. 30), "or at least was inspired in its original form, much more than the theory of acts of emulation, by the concept of '*immixio*,' in the attempt to draw a borderline between lawful and unlawful inspiration.
>
> ...in addition to direct inspiration, such indirect inspiration is prohibited as derives from extraordinary use that goes beyond the needs and the sphere of everyday life; such inspiration is permitted, on the other hand, as derives from the needs of everyday life."
>
> "Ihering," says Bonfante further on (*op. cit.*, pp. 32-33), "has described it in a brilliant article (*Jahrbücher für die Dogm. des Rechts*, Vol. VI, 1863, pp. 81 *et seq.*; in *Gesammelte Aufsätze*, Jena, 1882, pp. 22 *et seq.*), and at the same time gives it greater breadth, which brings it more into line with the requirements of current times. Ihering's theory can be summarized in the following terms: pure and simple prohibition of *immixio*, the principle of *in suo hactenus facere licet, quatenus nihil in alienum immittat* (it is permissible to do with one's own just as much as does not interfere with another's), is too narrow a concept; without interfering in any material way with a neighbor's property one can cause him the utmost annoyance. The prohibition should apply to every *Eingriff* or interference, either direct or indirect, with the neighbor's property; at the same time there should in addition be an absolute prohibition on all interference whose effects begin to operate directly on the neighbor's property, that is, ...direct interference; whereas that interference whose effects begin to operate on the property of the one accomplishing the acts, and continue on the neighbor's property, namely indirect interference, should only be

which, because it varies from time to time and from place to place, has to be left to the sovereign appreciation of the courts.[36]

In view of the above, and disregarding the natural purpose and normal manner of exercise of the right conferred on third parties by the LIP, I maintain that we would be close to or indeed actually going beyond bounds and entering the field of *misuse of rights*—which is proscribed by Article 7(2) of our Civil Code—[37] and, if not, it would to my way of thinking be because we were close to or actually engaged in something more serious.

Let me explain myself and then conclude. According to the majority of legal writers, misuse of rights is or may be spoken of when one is faced with the violation, through abuse, of an interest not protected by a specific legal prerogative. In the words of Diez–Picazo and Gullón once again,

> ...clearly the violation of a subjective right does not come into its purview [the purview of misuse of the right], inasmuch as the third party will have at his disposal all the actions that protect his right against violation.[38]

This means, concentrating on the question that concerns us here, that if the right of use accruing to the third party and limiting the author's right is not exercised "normally"—or "fairly," if you like—, that right lapses[39] and becomes a violation, an *infringement of the copyright of the author*, for which the author may bring action,[40] insofar as it is not actionable *ex officio*.

These are matters for the stars of procedural and criminal law, to whom I hand over my sword and cape, as the 1988 Feria de San Isidro is now over.

(WIPO translation)

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prohibited where it is harmful to the property or prejudicial to the persons to a degree greater than that which is ordinarily tolerable."

The "normal use" theory, which as we can see is made to underlie neighborly relations and rank immediately after acts of emulation, can be applied without difficulty, and under the same conditions as the latter, to the field of abuse of rights, irrespective of the rights involved.

This appears to be the direction followed by Stolfi, judging by the way in which Diez–Picazo and Gullón quote him. It actually is the direction followed by the last-mentioned authors (*op. cit.*, Vol. III, p. 184, and Vol. I, p. 464).

[36] In connection with "fair use," Nabhan (*op. cit.*, p. 16), points to a number of North American judgments and deduces the following from them:

> "The line which must be drawn between fair use and copyright infringement depends on an examination of the facts in each case. It cannot be determined by resort to any arbitrary rules or fixed criteria."

[37] Article 7 of the Civil Code:

> "(1) Rights shall be exercised in a manner consistent with the dictates of good faith.
>
> (2) The law shall not protect the abuse of rights or the antisocial exercise thereof. Any act or omission which, on account of the intention of its author, its object or the circumstances in which it occurs, manifestly exceeds the normal limits of the exercise of a right, thereby causing harm to third parties, shall give rise to the appropriate indemnification and to the adoption of such judicial or administrative measures as may prevent the continuation of the abuse."

[38] Diez–Picazo and Gullón, *op. cit.*, Vol. I, 1982, p. 465.

[39] In connection with the right of use, Article 529 of our Civil Code provides expressly for the extinction of the right "for serious misuse of the object." Albaladejo (quoted by Rams, *op. cit.*, p. 95) understands as being cases of serious abuse the misuse of the object or the repeated commission of minor abuses.

[40] "The owner of the rights recognized in this Law," says LIP Article 123, "may, without prejudice to any other actions that may be available to him, apply for an injunction restraining the unlawful activity of an infringer and claiming indemnification for material and moral damage caused, under the conditions laid down in Articles 124 and 125.

He may likewise apply for the ordering of precautionary measures for immediate protection as provided in Article 126."

Under LIP Article 128, the precautionary measures provided for in Article 126 may be granted in the course of criminal proceedings instituted for infringement of the rights recognized in the Law, and they do not prevent the institution of such other measures as may be provided for in the legislation on criminal procedure.

Correspondence

Letter from Italy

Mario FABIANI*

Summary

I. Legislation— 1. New legislation. 2. Proposals and draft laws. *II. Case Law*— 3. Criminal case law. The piracy of printed works and of software. 4. Civil case law. The subject matter of copyright. 5. Protection of photographs. 6. Works of applied art. 7. Moral rights. 8. Television broadcasts towards foreign countries. 9. Congress on the future of copyright.

I. Legislation

1. New legislation as regards the protection of cinematographic and audiovisual works and of radio broadcasts

The new items worthy of mention in the fields of copyright and neighboring rights that have occurred since the last "Letter from Italy" in 1983[1] concern above all studies and proposals to revise the Copyright Law No. 633, which goes back to April 22, 1941 (with successive amendments), and certain court decisions.

As regards the innovations in the legislation, two Laws may be cited: the first (No. 400, of July 20, 1985)[2] aims at combating cinematographic piracy. Article 1 of that Law stipulates:

> Any person who, with gainful intent, unlawfully duplicates or reproduces, by whatever means, cinematographic works intended for the cinema or television network, or, even without having recourse to duplication or reproduction processes, places on the market, holds for sale, brings into the territory of the State for profit-making purposes, publicly shows or broadcasts on television such duplicates or reproductions, shall be punished by imprisonment of between three months and three years and by a fine of between 500,000 and 6,000,000 lire.
>
> The penalty is not to be less than a minimum of six months, and the fine not less than one million lire if the offense is of sufficient gravity.

This Law may be considered as the counterpart to Law No. 406 of July 29, 1981,[3] Concerning Urgent Measures Against the Unlawful Copying, Reproduction, Import, Distribution and Sale of Unauthorized Phonographic Products. However, contrary to the 1981 Law, which exclusively concerns a phonogram as an industrial product independently of the work incorporated therein,[4] the new 1985 Law refers to the cinematographic work and thus to a work of creation protected as the subject matter of copyright and not of neighboring rights.

The criminal sanctions laid down by the 1985 Law are heavier than those under Article 171 of Copyright Law No. 633 of April 22, 1941. However, the 1985 Law does not take into consideration possible infringement of the author's moral rights which may accompany abusive reproduction of the work, whereas Article 171 of the Copyright Law, in its final paragraph, explicitly sanctions abusive utilization of the work of another person not intended for public disclosure or usurpation of authorship of a work or deformation, mutilation or other modification of the work that constitute an offense against the honor or reputation of the author.

A further legislative event is that of Law No. 121 of March 27, 1987.[5] This Law, which regulates certain commercial activities, lays down in Article 2 that musical cassettes and videocassettes for sale or for hire must bear the mark of the Italian Society of Authors and Publishers (SIAE). Failing this mark, the criminal sanctions laid down by Law No. 400 of 1985 are of application.

These two new Laws, of 1985 and 1987, have strengthened the control on reproduction and circulation of cinematographic works and made it easier to fight against piracy in this sector. The Italian Society of Authors and Publishers has intensificd its control activities on the market: during the years 1986 to 1988, hundreds of court cases have been brought; they have resulted in the infringers being sentenced to fines and, in the more serious cases, to terms of imprisonment, together with seizure of the

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[1] See *Copyright*, 1983, pp. 254–262.
[2] *Ibid.*, 1986, p. 202.
[3] *Ibid.*, 1982, p. 127.
[4] See, in this connection, the comments on this Law in the "Letter from Italy," *ibid.* note 1, p. 255.
[5] See *Copyright*, January 1989, insert *Laws and Treaties*, Text 1-01.

unlawfully reproduced material and the obligation to pay damages.

It is to be expected that the fight against phonographic and cinematographic piracy will be pursued with ever increasing effectiveness. Indeed, in face of the enormous phenomenon of unlawful recording and reproduction, it is essential to apply severe and adequate measures to eliminate, or at least, control and maintain the phenomenon within tolerable limits, to ensure the very survival of authors' rights and of the audiovisual industry.

I may finally mention, in the matter of new legislative events, that the Official Gazette No. 102, of April 14, 1983, published a communication from the Italian Ministry of Foreign Affairs concerning the entry into force for Italy, as of March 19, 1983, of the 1965 Strasbourg European Agreement for the Prevention of Broadcasts Transmitted from Stations Outside National Territories. The Agreement had been ratified by Law No. 375 of June 4, 1982. The ratification Law was commented in the 1983 "Letter from Italy."[6]

2. Proposals and draft laws

The Italian legislator will be called upon to continue his work to update the provisions of the Copyright Law in order to adapt it to the new situations now facing the exploitation of works.

Proposals for laws have been tabled by a number of members of Parliament with the office of their Assembly (House of Deputies or Senate). These proposals aim, in particular, to prolong the term of protection for musical and dramatico-musical works (from 50 to 70 years *post mortem auctoris*); to protect critical editions of literary and musical works that have fallen into the public domain; to institute a right to remuneration for blank cassettes and videocassettes. This latter proposal foresees a right to remuneration for the private copying of phonograms and videograms for the benefit of authors, producers of phonograms and videograms and for performers. According to the explanations provided by the members of Parliament who proposed the law, this new right is justified by the serious damage suffered by owners of copyright and neighboring rights through the practice of home taping.

The above-mentioned proposals for laws have been tabled by deputies of various Italian political parties and will be examined, in the forthcoming months, by the relevant parliamentary committees.

Apart from these proposals concerning specific matters, an in-depth study for a "rejuvenation" of the whole Copyright Law was carried out in the years 1986 and 1987 by the Standing Advisory Committee on Copyright. This Committee, set up under the Office of the President of the Council of Ministers, in accordance with Article 190 of the Copyright Law, gave its opinion that certain innovations should be introduced into the 1941 Copyright Law whilst leaving intact both its structure and its principles that are still in good condition thanks to the great competence and far-sightedness of those who drafted it in 1941 and subsequently amended it (including Valerio de Sanctis whose death, in November 1985, was announced by the Italian press under the heading "The father of copyright has passed away").

The Committee drew up the text of a preliminary draft framework law which, after passing into law, would normally be followed by regulatory provisions and implementing rules issued by the government. Among the principles on which the preliminary draft is based, it is interesting to note the following: to insert in the Copyright Law new chapters to regulate matters of private copying of protected works (reprography, sound and audiovisual recording) and the use of new technologies in the field of creation and of the dissemination of works in compliance with the principles set out in the international conventions ratified by Italy, to integrate the statutory provisions on the rental and public lending of copies of works, amend the provisions on resale royalty right (*droit de suite*) for works of figurative art and manuscripts, to supplement the provisions on publishing contracts (on the lines of the recommendations of WIPO and Unesco) and the provisions on public performance of works—in particular, provision should be made for participation by the authors in the public and private subsidies allocated to theaters—to reinforce civil and criminal sanctions, particularly in respect of the new technical means of making abusive use of protected works.

The associations and organizations of the various professional categories involved are currently studying the preliminary draft law. Criticism has already been voiced, especially by the organizations of users of works, and their opposition to certain proposals to amend the Law will very probably be heard when the draft is debated by Parliament.

II. Case Law

3. Criminal case law relating to piracy of protected works. Protection of software

In recent years, the courts have had to deal with a number of cases of interest to the foreign reader in view of the principles that were confirmed and of

[6] *Ibid.* note 1, p. 255.

the special characteristics of the individual cases examined.

Before mentioning a number of more significant decisions in civil cases, I would like to refer briefly to criminal case law. Proceedings instituted for infringement of criminal provisions concerning the protection of copyright are becoming ever more numerous, particularly as regards abusive broadcasting of protected works and the counterfeiting or unlawful reproduction of records, musical cassettes and videograms containing creations of the mind.

The first decision was given in respect of piracy of printed works by the Appeals Court of Milan on January 7, 1986.[7]

The practice of abusively reproducing printed works or parts of them in order to sell them is becoming a serious problem for publishers and authors, particularly in the case of scientific works. This is a form of economic parasitism and unfair competition that jeopardizes the legitimate interests of the author and of the publisher of the work.

The case heard by the Appeals Court of Milan concerned the abusive reproduction, in several copies, of 300 pages of a work of some 1,000 pages. The unlawful copies had been distributed at certain university bookshops. According to the defendants, the copies had been ordered by students.

The Appeals Court of Milan, upholding the judgment of the lower court, confirmed that the fact of reproduction with intent to sell a substantial part of a protected work constituted an offense that was punishable under Article 171 of the Copyright Law. The fact of reproducing a part of the work on order did not prevent it being an offense. In the case in point, the judges passed sentence of a fine, seizure and destruction of the unlawful copies and, in addition, as civil damages, compensation for the publisher and publication of the decision in the press at the expense of the defendants.

Software can be protected by assimilation to a literary or scientific work. Consequently, the criminal measures and sanctions laid down by copyright law may be applied to infringements of software. This was confirmed by the 3rd Criminal Chamber of the Court of Cassation in its decision No. 1323 of February 6, 1987.[8] The Court of Cassation held that a computer program was a special expression of a work of intellectual creation and, if it possessed the level of originality required for other works of the mind, it was to be protected under copyright law. The Court of Cassation thus joined the opinion expressed by practically all Italian legal writers. Some authors nevertheless hold that specific legislative provisions would be desirable in order to adopt, within the framework of copyright, a *sui generis* system of protection for computer programs. It must be added that the Italian Patent Law (Section 12) does not consider computer programs to be patentable inventions.

4. Civil case law. The subject matter of copyright and protection of the title of a work

The concept and organization of a cultural event cannot be protected as a work of the mind that is the subject matter of copyright. This rule was once more confirmed by the First Civil Chamber of the Court of Cassation in its decision No. 1264 of February 5, 1988.[9]

The organizers of an event devoted to a national meeting of pavement artists ("*i madonnari*": artists who draw portraits in colored chalks of the Virgin or the saints on the pavement) claimed to have an exclusive right in the title of their event (the title was in fact "*Incontro nazionale dei madonnari—Premi Gessetti d'oro*"). The Court of Cassation stated that the fact of imagining and organizing an event did not lead to an expression of form, which was essential for it to constitute a work of the mind protected by the Copyright Law. Consequently, the title of the event could not be protected. It might be pointed out here that under Article 100 of the Copyright Law No. 633 of April 22, 1941, the title of a work is not protected on the grounds of its creative nature, but solely as a function of its capacity to identify the work. The title is considered a sign which serves to distinguish or to designate the work and cannot be protected separately from the work. Therefore, if the concept of an event is not protected as a literary or artistic work, it will follow that no protection can be given to the title.

The view expressed by the Court of Cassation would therefore seem to be right. However, it may be added that the fact that the title cannot enjoy the protection afforded by copyright law does not exclude other forms of protection, particularly that provided against acts of unfair competition where such acts, through the use of names or signs by a competitor, are such as to mislead the public in respect of the competitor's services or products.

5. Protection of photographs

In the last "Letter from Italy" it was explained that application of the 1971 Paris Act of the Berne Convention, which entered into force in Italy on

[7] Published in the review *Giustizia di merito*, 1987, p. 149.

[8] Published in *Il Diritto di Autore*, 1987, p. 162, with a note by Pastore.

[9] Published in the review *Giustizia civile*, 1988, p. 1180.

November 14, 1979, had been accompanied by Decree No. 19 of the President of the Republic, of January 8, 1979,[10] making certain amendments to the domestic 1941 Copyright Law. The aim of those amendments was to harmonize the Italian Law with the Convention. One of the innovations introduced into the Italian Law was that concerning photographic works, to which copyright protection was afforded.

Following the amendment made by the 1979 Decree, photographic works are now protected as subject matter of copyright which they enjoy for a term of 50 years as from the year in which the work was created. On the other hand, "simple photographs" continue to be protected by the provisions concerning rights connected with the exercise of copyright (Articles 87 *et seq.* of Part II of the Copyright Law).

According to the second paragraph of Article 87, photographs of writings, documents, business papers, material objects, technical drawings and similar products enjoy no protection under rights connected with the exercise of copyright, nor, obviously, under copyright itself.

In my comments on the 1979 legislative amendment, which included "photographic works" in the list of works protected under copyright, I observed[11] that practical questions could arise when making a distinction between "photographic works" and "simple photographs" since the Law gives no definition of these terms and it will be for the courts to make the distinction in individual cases.

A quite specific question arose for the Court of Cassation: it concerned the publication of a work of a literary and scientific nature containing photographic illustrations. An author had published a history book with the title: *La carta moneta italiana dal 1746 al 1960*. The literary text of the work was accompanied by photographs of documents and of banknotes. After the publication of the work, photographs taken from it had been used, without the consent of the author and without stating the source, for a catalog of copies of banknotes issued during the past century. The author of the photographs subsequently took action for infringement against the author of the catalog.

In its decision No. 183 of January 13, 1988,[12] the Court of Cassation upheld the decision of the Appeals Court of Bologna of January 24, 1984, that had rejected the claim of the author of the photographs. In the view of the Court of Cassation, the photographs could not enjoy separate protection since they simply reproduced banknotes which constituted documents, business papers or similar products. Photographs of such products could not enjoy copyright protection nor that of rights connected with the exercise of copyright.

The Court of Cassation further pointed out that a catalog of banknotes constituted a quite different type of work from a scientific book on the history of money. The use of the photographs was therefore altogether lawful since the photographs of documents or similar products do not become works protected by copyright "by the simple fact of being inserted in a historical and literary work as elements of a description or illustration of the same work."

6. *Works of applied art by Le Corbusier*

The chaise longue and the tip-back armchair designed by Le Corbusier can be protected as works of applied art: that was the conclusion drawn by the Sienna Court in its decision of October 30, 1985.[13] The Court held as follows: copyright protection in favor of a work of applied art is to be recognized whenever the object, although produced on an industrial scale, represents a work of art which in itself and quite apart from the industrial product, can be contemplated under its aesthetic aspect due to its specific style, the beauty of its lines, the balance of its volumes and the novelty of its forms.

The principle reaffirmed by the Sienna Court can assist in interpreting the provisions of the Italian Law on the protection of works of applied art and industrial designs.

Works of applied art are protected, as we know, as the subject matter of copyright if their artistic value is distinct from the industrial character of the product with which they are associated (Article 2(4) of the Copyright Law).

The Copyright Law has therefore adopted the concept of dissociability as a criterion for distinguishing between works of applied art and industrial designs. This dissociability should not be understood as the physical possibility of separating the work of art from the industrial product. The approach to be adopted is that of dissociability understood in the conceptual sense. That is to say that for the purposes of dissociability one should take into consideration the possibility of making a conceptual distinction between the "artistic value" of the work of art and the "industrial nature" of the product to which it is applied.

Industrial designs, on the other hand, have neither artistic individuality nor a separate representative value and can therefore not be considered a work as such dissociated from the product. The

[10] See *Copyright*, 1980, p. 331.
[11] *Ibid.* note 1, p. 254.
[12] *Giustizia civile*, 1988, I, p. 955.
[13] Published in *Il Diritto di Autore*, 1988, p. 209.

aesthetic function (to make products more pleasing from an aesthetic point of view) does not therefore have an independent value, but is merged with, is associated with the product itself.

It has also been observed[14] that, in the final analysis, a value judgment on industrial designs should not concern their aesthetic merits, but the independence of the aesthetic component, in order to determine the ideal separability enabling a given work to be understood as an expression of beauty, irrespective of those elements that designate it as an industrial product.

Through its individual creative content, a work must express an independent value of intellectual representation which, although adapted to the industrial nature of the product, is not subservient to it. It is this criterion that was the basis of the decision by the Sienna Court in holding that what was admired in the works of Le Corbusier was not only the functional aspect of the article, but also the elegance of its lines and the aesthetic sentiment that they inspire. These elements give the whole its distinctive aspect which is characteristic of an original creation.

7. *Moral rights*

The protection of the author's moral rights was the subject of a decision taken by the first–instance judge *(Pretore)* of Rome in a case concerning the use of the name and works of an author in advertising for a commercial product.[15] The facts of the case were as follows: the firm Colgate Palmolive, a manufacture of soaps and detergents, had inserted in its drums of detergent products, on sale in shops and supermarkets, musical cassettes containing recordings of songs by two writers and singers who are very well known in Italy, Claudio Baglioni and Riccardo Cocciante. The packaging of the drums stated: "A concert in the drum: the best songs of Claudio Baglioni (or of Riccardo Cocciante) are inside."

The authors requested the first–instance judge to prohibit that act which, in their view, was prejudicial to their personality as authors and performers of their works.

Colgate Palmolive replied that it had bought the musical cassettes from the phonogram producer and that the authors had, moreover, authorized their commercial distribution. Colgate Palmolive added that the fact of placing copies of musical cassettes in the packaging of commercial products was in no way prejudicial to the authors' moral rights since the intellectual authorship of the works had been respected and stated on the outside of the getup and the works had in no way been modified or deformed.

The judge did not accept the view held by Colgate Palmolive. In the grounds of his decision, the *Pretore* stressed that, although the fame of an author could not be the subject matter of specific protection in itself, nevertheless exploitation of that fame, to which the subject had not given his authorization, could be prejudicial to his name and his image. Colgate Palmolive had used the names of the authors and their images, not in the physical sense in the latter case, but as describing the features of a person that identify him in society. The purchasers of the commercial product would imagine that the authors, for strictly economical reasons, had participated in the advertising operation by consenting to the utilization of their names and images.

Furthermore, the wording "A concert in the drum" could mislead the public, according to the view held by the judge, insofar as they might deduce that the musical compositions reproduced on the cassettes had been recorded during a public concert and not, as usual, in a recording studio, and that, therefore, Colgate Palmolive had acquired exclusive rights in the recording.

In the decision I have just commented on, the *Pretore* of Rome applied a principle set forth by Italian legal writers according to which the personality rights must include a right of identity as a right aiming to safeguard the demand to remain oneself in the context of a correct representation of one's individual personality. This is a right to respect for the moral components of the person, aligned, in a way, on the right in elements of the physical expression of the person (right to one's own likeness). The new element that is specific to this right concerns the field of application covering the complex social relationships of contemporary society. In the case of an author, this right can help to extend the sphere of protection of his personality as an intellectual creator.

8. *Television broadcasts towards foreign countries. The rights of the authors of the works utilized*

Broadcasting in Italy is currently governed by Law No. 103, of April 14, 1975, with the title "New Provisions Concerning Radio and Television Diffusion." The Law is based on the principle that broadcasting by means of electromagnetic waves or, on a national scale, by cable constitutes an essential public service in the general interest. Consequently, the Law has afforded the State an abso-

[14] Benussi, "Protection of Industrial Designs," in *Industrial Property*, 1986, p. 61.

[15] *Pretore* of Rome, November 15, 1986, in *Il Diritto di Autore*, 1987, p. 155.

lute monopoly of broadcasting services by electromagnetic waves on the national territory and for broadcasts towards foreign countries. The Law has given private initiative the possibility of setting up and operating wireless installations for retransmitting sound and television programs from abroad. The Law has introduced a special system of administrative authorizations issued by the Post and Telecommunication Ministry to cover the exercise of such activities by private persons.

A number of the provisions of Law No. 103 of 1975 have been contested before the Constitutional Court whose function it is to verify the constitutional legitimacy of acts on the part of the legislative powers. The grounds for the actions were that the provisions of the Law affording to the State a broadcasting monopoly did not recognize the freedom to operate wireless transmitting stations at local or regional level. The Constitutional Court upheld the appeals and, in its decisions No. 202 of 1976 and No. 148 of 1981, pronounced non-compliance with certain provisions of the Constitution (freedom of expression, freedom of private economic initiative) of the provisions of the 1975 Law that gave the State a monopoly of wireless broadcasting for local or regional programs.[16]

Subsequently, the Constitutional Court was called upon to examine a further article of the 1975 Law, which afforded the State a monopoly of transmission for radio and television programs from Italy towards foreign countries. The Court based its findings on the same considerations as in its preceding decisions and, by decision No. 153 of May 13, 1987,[17] the Court stated non-compliance with the principles of the Constitution of the legislative provision, which ceased to have effect as from the day following publication of the decision.

The result of that decision is that the Italian State no longer has a monopoly of transmissions towards foreign countries and cannot therefore afford exclusivity of such transmissions to the national broadcasting organization, RAI. Any private radio or television transmission station installed in Italy can therefore transmit programs towards foreign countries. The sole condition is that it will be necessary to obtain authorization from the Italian Post and Telecommunication Ministry.

Apart from the problems of public international law that may arise (can the Italian State give authorization to use frequencies reserved for another sovereign State without the latter's consent?), the field of copyright could be indirectly involved. In the event of a proliferation of stations transmitting towards foreign countries, the use of works included in the broadcasting programs will occur basically in the country towards which the transmission is directed. Consequently, questions similar to those raised as regards the use of works in direct broadcasting satellite programs may arise.[18] It would be desirable for the new legislative regulations on broadcasting activities to subject the government authorization to carry out broadcasting activities towards foreign countries to compliance with copyright obligations under Italian law and under the law of the country to which the broadcast is directed, or under the relevant international conventions. Such a regulation could be inserted into the draft Law on Broadcasting currently before Parliament. This draft is most likely to be amended and consolidated; moreover, it will have to comply with certain guidelines given by the Constitutional Court in a very recent decision of July 1988, concerning broadcasting activities in general.

9. A national congress on the future of copyright

Amongst the most significant events of recent years at a national level, I must mention the Congress of Judges on the Prospects for Literary and Artistic Property. This Congress was aimed at increasing the awareness of Italian judges on current matters of copyright. It was organized by the Italian Society of Authors and Publishers (SIAE) in conjunction with the Lunigianese Center for Legal Studies.

The Congress topic was: "Creative Intelligence Between Rules and Fantasy." This pregnant title was intended to emphasize the need to adapt legal rules to an activity characterized by the fact that it defies all regulation since it is based purely on creativity which, by its very nature, is not subject to formal rules.

What is needed, from the other side, is a degree of imagination on the part of the legislator in his search for solutions adequate to the interests involved: to identify the point of equilibrium between the interests of those who create and disseminate their works of the mind and the public interest in the creation and diffusion of such works.

A debate was constructed around this proposition, introduced by a general report presented by the late Luigi Conte, as President of SIAE.

During the three days of the congress, attention was paid to the problems of civil and criminal pro-

[16] *Ibid.* note 1, p. 256.

[17] Published in the *Official Gazette* No. 21, of May 20, 1987.

[18] See in this respect the studies published in *Copyright* by Dillenz, "Legal System Governing the Protection of Works Transmitted by Direct Broadcasting Satellites," 1986, p. 386, and by Fabiani, "Copyright and Direct Broadcasting by Satellite," 1988, p. 17.

tection of copyright and the rules of juridical procedure to be followed in order to achieve such protection.

The Congress was attended by some 600 judges of all jurisdictions, from the Court of Cassation and the Constitutional Court to the courts of the various regions of Italy. The judges participated actively in the work of the Congress through their reports or their interventions in the debates entered on the agenda.

In its conclusions, the Congress emphasized the fundamental role of the courts in interpreting and applying the law, taking into account the evolution of society and of the new forms of creation and utilization of works.

By interpreting and explaining the statutory provisions, the courts have frequently found solutions adapted to new problems which the 1941 legislator could not have foreseen. Without a doubt, the legislator will have to be most attentive to the suggestions and guidance provided by case law in recent years when accomplishing his revision work on the current Law.

(WIPO translation)

Activities of Other Organizations

International Confederation of Societies of Authors and Composers (CISAC)

36th Congress

(Buenos Aires, November 13 to 19, 1988)

At the invitation of the Argentinian authors' societies, the *Sociedad de Autores y Compositores* (SADAIC) and the *Sociedad General de Autores de la Argentina* (ARGENTORES), the International Confederation of Societies of Authors and Composers (CISAC) held its 36th Congress in Buenos Aires from November 13 to 19, 1988.

The opening session took place in the presence of Dr. Raúl Alfonsin, President of the Argentine Republic, who gave a speech.

The Congress, which was presided over by Mr. Esteban Bautista, an author from Spain, outgoing President of CISAC, was particularly well attended. Some 500 delegates of 70 societies participated.

WIPO had been invited as an observer and was represented by Mr. Mihály Ficsor, Director, Copyright Law Division, who gave a speech during the opening session, and by Mr. Carlos Fernández Ballesteros, Director, Developing Countries Division (Copyright).

The agenda of the Congress included debates on reports about the following subjects: "Authors' Claims in the Light of the Utilization of Their Works by Private Copying and Home Reproductions," "The Role of Collective Management in Author–Producer Relations, Particularly for Audiovisual Works," "The Protection of the Rights of Authors Notably of Audiovisual Works, vis-à-vis the Major Media" and "Importance for Authors to Enjoy the Right to Determine the Destination of Their Works."

The Congress also discussed regional reports.

The various reports gave rise to lively discussions at the end of which the Congress adopted eight resolutions. Two resolutions concerned more general questions of copyright protection ("Protection of Authors' Rights in Relation to Authors' Contracts" and "Rights of Authors of Audiovisual Works"); they are reproduced below. The other resolutions concerned current legislation and other developments in various countries (Argentina, Austria, Brazil, Italy and the United Kingdom) and the participation of CISAC in the program of the "Decade for Cultural Developments (1988–1997)."

The Congress elected the new President and Vice-President, and renewed the Administrative Council, of CISAC (composed of representatives of 24 societies of authors), while the Administrative Council elected the Executive Bureau (composed of 12 members who elected a Chairman and a Vice-Chairman) and the Legal and Legislation Committee (composed of 30 members), for the period until the 1990 Budapest Congress.

RESOLUTIONS

Protection of Authors' Rights in Relation to Authors' Contracts

The International Confederation of Societies of Authors and Composers (CISAC), meeting in General Assembly in Buenos Aires from November 13 to 19, 1988 on the occasion of its 36th Congress,

Considering that the value of an author's right largely depends on the terms on which the author can exercise it for his benefit,

Considering that in most cases the author is in a weaker bargaining position than the prospective user of his work and thus needs support in negotiating the terms on which its use is authorized,

Considering that the terms of contracts concluded by authors for the use of their works differ from one another both in scope and in substance,

Recommends that the authors' organizations:

(1) Promote by the dissemination of information, the production of studies and all other appropriate means the development of national legislations aimed at improving the protection of authors in connection with the individual exercise of their rights through authors' contracts for the use of literary and artistic works,

(2) Encourage all efforts to establish the most appropriate means of ensuring the protection of authors in the

course of the individual exercise of their rights through authors' contracts and provide one another with information on the content of the model contracts drawn up by them in this field.

Rights of Authors of Audiovisual Works

The International Confederation of Societies of Authors and Composers (CISAC), meeting in General Assembly in Buenos Aires from November 13 to 19, 1988 on the occasion of its 36th Congress,

Adopts the following guiding principles concerning the protection of the rights of authors of audiovisual works:

1. The recognition or enforcement of authors' rights vis-à-vis new technologies for dissemination or reproduction of audiovisual works should not be conditioned upon a showing of harm to authors or the markets for their works. Diluting the author's property rights in this manner, and making their enforcement uncertain, undermines the purpose of copyright: to provide authors with incentives for the continued creation of new works. Experience has shown, moreover, that the full commercial impact of a new technology is not foreseeable in its early stages when copyright policies must be established.

2. The exclusive rights of authors extend to all uses of their works. Hence, the retransmission of television station broadcasts to cable subscribers requires the consent of right holders. This principle applies to carriage of local as well as distant signals; in either case, the cable system is profiting from the dissemination of copyrighted works.

3. Compulsory license schemes inherently diminish the rights of authors by denying their ability to approve uses of their works and secure remuneration at levels obtainable in an open marketplace. Compulsory licensing should not, therefore, be interposed between authors and users of copyrighted works. Where, as in the case of cable retransmission rights, a mechanism for maximizing access to program rights and minimizing transaction costs is considered desirable, blanket licensing on an industry wide basis should be encouraged.

4. The use of videocassette recorders for home recording of audiovisual works from television, subscription television, cable and broadcasts by direct broadcasting satellites, or from prerecorded videocassettes, infringes authors' rights in those works. Royalties based on sales of videocassette recorders and blank videocassettes should be payable by the purveyors of these devices, for distribution among right holders on a basis which reasonably approximates the extent of home duplication of their respective works. Such a royalty scheme should be instituted at the earliest possible date, before commercial organizations and consumers develop vested interests in the *status quo*.

5. All modes of exploitation of audiovisual works should remain under the control of authors and their grantees so that they may optimize their return from the rights granted by the copyright laws. Accordingly, authors should be accorded a rental right which survives the sale of prerecorded videocassettes to dealers or others.

6. Vis-à-vis producers of audiovisual works, authors are entitled to *(a)* separate remuneration for each medium of exploitation and *(b)* continuing remuneration, in the form of a percentage of revenues where appropriate, throughout the active distribution of their works. Moreover, authors should be permitted to negotiate collectively with producers' and broadcasters' organizations to secure these and other minimum contract terms.

7. Recognition of the moral right—a right which is a distinctive feature of authors' rights—should enable all authors, throughout the world, to ensure effective respect for their works, whatever the mode of exploitation.

Books and Articles

Bibliographical List

This is a selection of books and articles that reached the International Bureau between July 1 and December 31, 1988.

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Calendar of Meetings

WIPO Meetings

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

1989

February 20 to March 3 (Geneva)

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

The Committee will consider proposed standards in the field of literary and artistic works for the purposes of national legislation on the basis of the Berne Convention for the Protection of Literary and Artistic Works.
Invitations: States members of the Berne Union or WIPO and, as observers, certain organizations.

April 3 to 7 (Geneva)

WIPO Permanent Committee for Development Cooperation Related to Copyright and Neighboring Rights (Eighth Session)

The Committee will review and evaluate the activities undertaken under the WIPO Permanent Program for Development Cooperation Related to Copyright and Neighboring Rights since the Committee's last session (March 1987) and make recommendations on the future orientation of the said Program.
Invitations: States members of the Committee and, as observers, States members of the United Nations not members of the Committee and certain organizations.

April 10 to 21 (Geneva)

Diplomatic Conference for the Conclusion of a Treaty on the International Registration of Audiovisual Works

The Diplomatic Conference will negotiate and should adopt a Treaty on the international registration of audiovisual works and Regulations under that Treaty.
Invitations: States members of WIPO and, as observers, States members of the United Nations not members of WIPO and certain organizations.

April 24 to 28 (Geneva)

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

The Committee will continue to examine a draft treaty on the harmonization of certain provisions in laws for the protection of inventions.
Invitations: States members of the Paris Union and, as observers, States members of WIPO not members of the Paris Union and certain organizations.

May 8 to 26 (Washington)

Diplomatic Conference for the Conclusion of a Treaty on the Protection of Intellectual Property in Respect of Integrated Circuits

The Diplomatic Conference will negotiate and should adopt a Treaty on the protection of layout-designs of integrated circuits.
Invitations: States members of WIPO or the Paris or Berne Unions and, as observers, States members of the United Nations not members of WIPO or the Paris or Berne Unions and certain organizations.

May 29 to June 2 (Geneva)

WIPO Permanent Committee for Development Cooperation Related to Industrial Property (Thirteenth Session)

The Committee will review and evaluate the activities undertaken under the WIPO Permanent Program for Development Cooperation Related to Industrial Property since the Committee's last session (May 1988) and make recommendations on the future orientation of the said Program.
Invitations: States members of the Committee and, as observers, States members of the United Nations not members of the Committee and certain organizations.

June 12 to 28 (Madrid)

Diplomatic Conference for the Conclusion of a Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks

The Diplomatic Conference will negotiate and should adopt a Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks.
Invitations: States members of the Madrid Union, Denmark, Greece, Ireland, the United Kingdom and, as observers, the other States members of the Paris Union as well as certain organizations.

June 26 to July 3 (Paris)

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

The Committee will mainly review the activities undertaken and the meetings held since the Committee's last session (June 1987) as far as substantive issues of copyright protection are concerned.
Invitations: States members of the Executive Committee of the Berne Union and, as observers, other States party to the Berne Convention and certain organizations.

July 5 to 7 (Geneva)

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

The Committee will review the status of the international protection of neighboring rights under the Rome Convention.
Invitations: States members of the Intergovernmental Committee and, as observers, other States members of the United Nations and certain organizations.

September 25 to October 4 (Geneva)

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

All the Governing Bodies of WIPO and the Unions administered by WIPO meet in ordinary sessions every two years in odd-numbered years.
In the sessions in 1989, the Governing Bodies will, *inter alia*, review and evaluate activities undertaken since July 1988, and consider and adopt the draft program and budget for the 1990–91 biennium.
Invitations: States members of WIPO and the Unions and, as observers, other States members of the United Nations and certain organizations.

September 26 (Geneva)

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

The Committee will discuss its main activities and plans for the future.
Invitations: States and organizations members of the Committee and, as observers, certain other States and organizations.

October 9 to 13 (Moscow)

International Forum on the Role of Industrial Property in Economic Cooperation Arrangements

The Forum will deal with questions of industrial property in joint ventures (among capitalist and socialist countries) and other cooperative economic arrangements (among capitalist and socialist countries), particularly in the field of the transfer of high technology, trade in goods bearing trademarks and franchizing of services.
Invitations: The Forum will be open to the public. Participants, other than representatives of governments, will be requested to pay a registration fee.

November 1 and 2 (Beijing)

Worldwide Symposium on the International Patent System in the 21st Century

The Symposium will be conducted in three half-day sessions, each dealing with one of the following three topics: internationalization of the patent system; computerization of the patent system; patent documentation, search and examination.
Invitations: States members of WIPO, certain intergovernmental organizations and non-governmental organizations having observer status in WIPO.

UPOV Meetings

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

1989

April 14 (Geneva)

Consultative Committee (Thirty-ninth Session)

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

October 16 (Geneva)

Consultative Committee (Fortieth Session)

The Committee will prepare the twenty-third ordinary session of the Council.
Invitations: Member States of UPOV.

October 17 and 18 (Geneva)

Council (Twenty-third Ordinary Session)

The Council will examine the program and budget for the 1990-91 biennium, the reports on the activities of UPOV in 1988 and the first part of 1989.
Invitations: Member States of UPOV and, as observers, certain non-member States and intergovernmental organizations.

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

Non-Governmental Organizations

1989

July 10 to 12 (Geneva) — International Association for the Advancement of Teaching and Research in Intellectual Property (ATRIP): Annual Meeting

September 26 to 30 (Quebec) — International Literary and Artistic Association (ALAI): Congress