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# Copyright

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## The Hundredth Anniversary of the Berne Convention: the Development of Law in the Copyright Field Through the Interaction of the Convention and Swiss Legislation

Aloïs TROLLER\*

### I. Copyright and the Swiss

The creators of literary and artistic works and copyright specialists are dismayed by the reluctance shown by a large section of the Swiss people and its representatives in accepting a copyright regime that protects authors fairly and efficiently. This lack of comprehension is to be found both among members of the councils that play the part of legislator and in the public that uses the works without paying the remuneration due to the author.<sup>1</sup> There is probably no area of civil law in which the notion of justice is so underdeveloped as in that of copyright. That comes as a surprise at first. Practically everybody makes daily use of literary and artistic works in one way or another, whether books, music or works of art. They have become a part of everyday life just like food and sleep. The great majority of "consumers" of literary and artistic works are in contact with these creations of the mind, but not with their authors. The creation of the work is not present in the mind of the reader or listener: there are intermediaries between the authors and the public (publishers, performers, etc.). It could be argued that the situation is the same for inventions and industrial designs, but there are striking differences.

Inventors or the creators of industrial designs are rewarded by the industry that manufactures the products or objects, and the industry in turn has its expenses refunded and its profits paid by purchasers. The problem of the remuneration payable for

enjoyment being shared by an unlimited number of persons does not arise. In order to awaken or nurture the notion of justice, it is important to ask oneself what is owed to the inventor, or to the industry that has taken his place: there is an exchange of interests between creators and the users of their creations. The representatives of industry considering the text of a law on patents or industrial designs realize that they have an interest on the one hand in protecting the inventor, and on the other hand in facilitating the use of this work of the mind.

Authors, however, never benefit from having their rights limited, and users do not concern themselves with the possibility of finding themselves in the author's role. The situation is one-sided, as the interests of authors are contending with the interests of users and partly with those of the intermediaries, insofar as the latter do not have a share in the author's income.

Another obstacle to the understanding of copyright is the difficulty — indeed many consider it the impossibility — of capturing the substance of literary and artistic works, which are immaterial and capable of being made material by anyone in a number of different ways. Literary and artistic works are among the most widespread of man's creations. And yet no legislator has attempted to define them and no lawyer has presented a definition that has won unanimous acceptance from legal writers.<sup>2</sup>

It can therefore be said that, in spite of the omnipresence of literary and artistic works, the field of copyright has remained, as far as its legal structure and its role in the service of justice are concerned, difficult of access for all but a small circle of initiated people.

I should imagine that this state of affairs is to be found in the majority of countries and that it is not a Swiss speciality.

And yet it is the development of copyright in Switzerland that illustrates it particularly well. I shall come back to this when I show how Swiss legislation has shrunk from introducing a federal copyright law, and what daunting obstacles it has encountered in the past and still encounters today on the road towards ratification of the latest texts of the Berne Convention.

<sup>2</sup> See I. Cherpillod, *L'objet du droit d'auteur*, Lausanne/Paris, 1985.

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<sup>1</sup> See G. Krüger-Nieland, *Der Urheberrechtsschutz im Spannungsfeld der Eigentums-garantie der Verfassung* (Tribute to Walter Oppenhof on his 80th birthday, Munich, 1985): "The Federal Council put forward arguments inspired above all by tax and competition considerations." (p. 189); "That has the effect of establishing in the legal consciousness of the public the mistaken idea that, in the case of the reproduction for private use or other personal or internal purposes and also the public communication of works for non-profit-making purposes, those efforts that legislation considers to be ineligible for protection may be exploited without any economic return, and that undermines the principle of equity on which the protection of creative activity is based. The legal consciousness of the public has to be made aware, as a matter of urgency, of intellectual property's need for protection." (p. 190); "... that merely proves that, in other countries too, intellectual property protection can only establish itself with difficulty in the face of the powerful technical industry lobby." (p. 191).

## II. Switzerland's Contribution to the Establishment of the Berne Union and to the Drafting of the Text of the Convention

### 1. *The protection of literary and artistic works in Switzerland prior to 1885*

For a more ready understanding and assessment of the role played by the Swiss Federal Council among the founders of the Berne Convention, a brief mention should be made of the state of the protection of literary and artistic works in the decades prior to 1885.

Aloïs d'Orelli described it in his commentary on the Swiss Federal Law on the Copyright in Literary and Artistic Works (of April 23, 1883).<sup>3</sup>

His first sentence declares:

The recognition of so-called intellectual property met with opposition and rejection in our Swiss cantons until very recently. It was wrongly looked upon as an infringement of the freedom of enterprise.<sup>4</sup>

At the time of the deliberations on the 1848 Constitution, the delegates of Geneva proposed conferring on the Federal Assembly the power to legislate on intellectual property. The proposal was rejected, even though the discussion had shown the advantages offered by the possibility of entering into treaties with neighboring countries. As France had on a number of occasions expressed the desire to enter into a treaty with Switzerland, the Federal Council proposed to the cantons that the protection of literary and artistic property be introduced by means of a concordat. In spite of the entry into force of that concordat, six cantons remained in which there was no legal protection for literary and artistic works.

In response to the pressure from France, Switzerland entered into a Convention (1864) whereby the French were granted protection for their literary and artistic works in Switzerland. French authors thus enjoyed in Switzerland protection that continued to be denied to Swiss authors. Treaties containing equivalent provisions were then concluded with other countries. The 1874 Constitution finally put an end to this deplorable situation, as its Article 64 gave the Confederation the power to legislate on literary and artistic property.

In its message of December 9, 1881,<sup>5</sup> the Federal Council acknowledged the reluctance of the people and their representatives to accept the protection of literary and artistic works. It justified the need for the law by saying that the present situation was a

humiliating one, with foreign authors enjoying better protection in Switzerland than the Swiss themselves and Swiss courts having to apply foreign criminal laws. The message recognized that it was fair to grant to the author alone the right to reproduce his ideas in the form that he himself had given them. It followed that the right of reproduction constituted what had been called literary and artistic property. It sought to justify the sentiments opposed to the author's absolute control over his work by means of arguments which to this day have been put forward in support of exceptions to the author's freedom to dispose of his work as he sees fit that run counter to the fair and equitable remuneration due to him.<sup>6</sup>

The Law entered into force on January 1, 1884. The ground was thus prepared for Switzerland to play a part in the foundation of a literary and artistic convention whose sponsor was the International Literary and Artistic Association (ALAI).

### 2. *The Role of the Federal Council*

The ALAI decided at its 1882 Rome Congress that a conference would be convened in Berne in 1883 to establish the groundwork of a program on which a universal convention could be based.

The Berne Conference lasted from September 10 to 13, 1883. The draft that it voted on at its meeting on September 13 was in its view no more than a basis for discussion which it was proposing to the Federal Council for the purposes of the consideration of a draft convention to be submitted to a diplomatic conference for examination. The Federal Council accepted this task and announced the result of its investigation in a Note that it circulated "to the Governments of all civilized countries" on December 3, 1883. The Note provided the Convention with a sound basis, as it allied farsightedness regarding political options with prudent concentration on the principle of assimilation which has remained the central feature of the Convention ever since. Owing to its importance to the acceptance and growth and

<sup>3</sup> A. d'Orelli, "Das schweizerische Bundesgesetz betreffend das Urheberrecht an Werken der Literatur und Kunst unter Berücksichtigung der bezüglichen Staatsverträge," Zurich, 1884, pp. 1 *et seq.*

<sup>4</sup> *Ibid.* (see note 3), p. 1.

<sup>5</sup> *Feuille fédérale*, 1881, Vol. IV, pp. 645 *et seq.*

<sup>6</sup> *Ibid.* (see note 5), p. 647: "There is a trend nowadays towards granting to the author and his successors in title, at the expense of society, the absolute and perpetual enjoyment of this Convention property. Is it not useful and indeed necessary that Switzerland, as far as it is itself concerned, should maintain those principles that it considers wise and reasonable, and that its legislation should declare that it will not allow clearly excessive legal concepts to be applied within the country? We believe that we shall have all the more strength to resist the trends that we mentioned if, in the negotiation of trade agreements or special conventions, we are able to rely on a Federal law than if all we can bring to bear against those trends is the provisions of a concordat that does not even bind all of Switzerland, and which moreover is no longer in keeping with our time."

the Convention, I record here the actual text of the message:

The Federal Council has not concealed from the initiators of this project that it foresaw difficulties in its immediate, full-scale realization; conventions recently concluded or in operation for a certain number of years are to a greater or lesser degree in contradiction to certain sections of the set of provisions constituting the draft, and one cannot expect those conventions to be easy to amend prior to their expiry ... On the other hand, it would certainly be of great benefit to achieve, at the outset, a general understanding by which that exalted and, as it were, natural principle according to which the author of a literary or artistic work, irrespective of his nationality and of the place of reproduction, has to be protected on the same footing as the nationals of every country, would be proclaimed. Once this fundamental principle, which does not conflict with any convention in existence, has been accepted, and once the general Union has been established on that basis, it is beyond doubt that, under the influence of the exchanges that would be initiated between the States of the Union, the more flagrant differences existing between national laws would disappear one after the other, to be replaced by a more uniform, and consequently more secure, regime for authors and their successors in title.

The Federal Council voiced its concerns by first noting the various countries' agreement in principle to the ALAI draft, and by adding:

... this general agreement thus creates broad foundations on which we now have to endeavor to build new walls. First, a study has to be made of the manner in which that can be done without dealing too painful a blow to the domestic legislation of individual States, or to existing international conventions.<sup>7</sup>

Aloïs d'Orelli, a distinguished Swiss specialist who took part in the discussions, laid stress on the fact that the variety of national legislation was a reflection of the national character of the various peoples, and that it was likely to develop still further.

As the time has not yet come to outline universal legislation, the program of the Federal Council, which already makes considerable progress possible, should be adhered to.<sup>8</sup>

The Conference took the modest and measured course of action indicated by the Federal Council, and succeeded in drafting and adapting the text of the Convention in 11 days, which today is no longer conceivable.

I do not think it is too outspoken to claim that the climate in Switzerland, so un conducive as it was to the emergence of copyright, favored the foundation of the Union and of the Convention. It led the Federal Council to aim for a realistic objective, and to restrain the strivings of the idealists, bearing in mind the maxim "Grasp all, lose all." Aloïs d'Orelli reported on the joint efforts of the delegates and the Federal Council in the following terms:

<sup>7</sup> Records of the International Conference for the Protection of Authors' Rights, convened in Berne from September 8 to 19, 1884 (Berne, 1884), p. 10.

<sup>8</sup> *Ibid.* (see note 7), p. 28.

There is reason to be pleased with the results achieved. The foundations of international codification have been laid. The success of the Conference is due above all to the preparatory work by the Swiss Federal Council, to the talent of Mr. N. Droz, who presided remarkably well over the deliberations, to the very penetrating proposals made by the German delegation and to the cordial understanding between it and the French delegates, who, in a manner that was as courteous as it was kind, resigned themselves on many subjects to adopting the German proposals.<sup>9</sup>

### 3. The Role of Federal Councillor Numa Droz

Any person who investigates the reasons for his success in life may and indeed must admit that, at some stage, a happy chance has presented itself to him and enabled him to succeed beyond his hopes.

Such a benevolent and welcome chance consisted, in 1884 and 1885, in the fact that Numa Droz was a member of the Federal Council. It could even be doubted that the Federal Council would have been given the mandate of writing the draft convention without the confidence inspired by the ability of Numa Droz.<sup>10</sup> He explained to the delegates the interpretation that the Federal Council had placed on that mandate:

Gentlemen, the Federal Council did not hesitate to accept this honorable mission. It seemed to it that here was a work of international justice to which Switzerland should not refuse its support, all the less so as our country has always set great store, under such circumstances, by acting as intermediary in all aspirations of this kind, and thereby playing a role, albeit modest, yet which we consider useful, in the concert of nations.<sup>11</sup>

Röthlisberger, evoking the merits of Numa Droz, testified to the importance of the activity of that distinguished statesman and lawyer:

The choice could not have been a happier one. Mr. Droz had amply proved, with the aid of his article on intellectual property, published in July 1882 in the review *Bibliothèque universelle et revue suisse*, and in his participation in the parliamentary work on the Swiss Federal Law mentioned earlier, that he had mastered and fully understood this whole field. It is to his energy and his understanding of this matter of current concern, to his tact and to his admirable ability to find the right wording, both clear and simple, even for the most complex points, that we must attribute, to a large degree, the success of the work on the Union. The addresses that he gave at the opening and closing of the various preparatory conferences are very models of their kind, imprinted with a profound understanding of the subject.<sup>12</sup>

<sup>9</sup> A. d'Orelli, "La Conférence internationale pour la protection des droits d'auteur, réunie à Berne, du 8 au 19 septembre 1884, in *Revue de droit international*, December 1, 1884, p. 14.

<sup>10</sup> E. Röthlisberger, "Die Berner Uebereinkunft zum Schutze von Werken der Literatur und Kunst und die Zusatzabkommen," Berne, 1906, pp. 9 *et seq.*: "The Swiss ambassador in Paris suggested to ALAI that it should approach the Federal Council."

<sup>11</sup> Records of the Conference (see note 7), p. 20.

<sup>12</sup> E. Röthlisberger (see note 11), p. 10.

### III. Bureau of the International Union for the Protection of Literary and Artistic Works

When we speak of the Swiss contribution to the development of the Berne Convention, we cannot overlook the efficient role played by the Bureau of the Union. An entire article would be needed if one were to give a detailed account of its activities. Suffice it to say here that the Bureau was a quiet refuge in the midst of the impassioned discussions of representatives of the countries of the Union and interested circles. Those who had the good fortune to witness the tranquil atmosphere and the strictly scientific spirit that reigned in those modest premises in Berne will never forget that impression of devotion to the development of copyright and of the Convention that prevailed there. It is thanks to the existence of the Bureau and to its services that the Convention has survived both world wars, and that the countries of the Union have been able to resume their mutual relations. It may be said that, until the most recent post-war period, copyright specialists formed a friendly circle within ALAI which benefited from the presence of the Director of the Berne Bureau.

### IV. The Influence of the Convention on the Development of Swiss Copyright

After the foundation of the Union, relations between the Convention and Swiss national legislation remained one-sided. Swiss legislation had great difficulty in following the evolution of the text of the Convention. Once again it is preferable to give the floor to R othlisberger, who gave a very good account of the situation during the period between 1885 and 1922. Indeed his observations do, alas, have a measure of topicality:

In the field of copyright, Switzerland has handed over to other States the role of guide that it seemed destined to play, in view of the fact that it was on its soil that the first legislative measure for the protection of copyright was taken (Basle, 1531), and also that provision was made for the recognition of the principle of reciprocity in copyright (draft law of the Swiss Government, 1799). In spite of the active and sometimes even exemplary production shown by literature and art, and even though the operational center of the development of international protection, namely the International Bureau of Intellectual Property, is located in the Federal capital, our country is pushed more than it pushes in that field of law. That is due to the somewhat arid nature of the subject for a country with a direct democracy, but also to the development of law, which has taken place more rapidly in centralized countries.<sup>13</sup>

Nine years later, R othlisberger violently criticized the draft of the new Law:

It is proposed that we should translate into reality the main stipulation of the reform, which is the alignment of our very backward and fragmentary legislation at least on the text of the Berne Convention as revised in 1908, in order that our compatriots may be granted the same rights as those enjoyed by the nationals of other States of the Union; they do indeed benefit from far more favorable treatment in Switzerland since the entry into force of that Convention on September 9, 1910.

For a number of new aspects of this branch of law, it is the very detailed German legislation that sets the pattern.

We were indeed to receive a uniform, well-structured law that used precise terminology, but is it really a law on copyright? It would seem that such a law should grant the creator of literary and artistic works all the prerogatives that derive from his work, and not encroach on this complex set of individual and economic rights except where absolutely necessary in the public interest, lest the already modest profit of the author be reduced to nothing, and his material autonomy, in other words his intellectual independence, be thereby compromised. What could we envisage in its place?

The influence of the "public" interest ... is so great that the rights concerned are pruned and fragmented as practically no others would be. Very subjective reasons are given when it is asserted that this or that limitation "could not cause the author any substantial material prejudice."

To justify such amputations it is frequently claimed that society has in one way or another contributed to the creation of the works, yet that is sophistry. Obviously creative work, just like any other work, could not be achieved without all the means and raw materials that the outside world has to offer, but the very fact that it is done, and moreover that it bears the stamp of the specific personality of a particular intellectual worker, is to the sole credit of the latter; the achievement is not and cannot be anyone else's.

Without subscribing to a universal denigration of the draft, which clearly does also have highly commendable features, we should like, if only out of sympathy for Swiss democracy and respect for the Berne Convention and the bonds that it creates between peoples, to see our legislation set a much better example of restraint in the so-convenient appropriation of the intellectual property of others. It is a question of showing the people the way, and of stirring its conscience, and not of encouraging an anti-social mentality by means of all sorts of concessions and escape routes. Otherwise the sense of law and justice would suffer badly. We are confident that there will be men on the various councils who will stand up to defend the cause of intellectual workers, and fight successfully against retrograde prejudices, for the honor of the country.<sup>14</sup>

This impassioned, stirring appeal produced a response. In spite of bitter discussions, the text of a law that was satisfactory to authors was unanimously adopted by the Council of States and the National Council on December 7, 1922. It entered into force on July 1, 1923.

R othlisberger expressed its satisfaction in the following terms:

The immediate main objective of the Law, namely its alignment on the text of the Berne Convention as revised at Berlin in 1908, has in any event been achieved; but there was another objective, which was to deal conscientiously with a

<sup>13</sup> E. R othlisberger, "Die Revision der schweizerischen Urheberrechtsgesetzgebung," reprinted from the review *Schweiz. Juristen Zeitung*, 6th year, 1910, Nos. 20, 21 and 22, p. 1.

<sup>14</sup> E. R othlisberger, "Zur Revision der schweiz. Urheberrechtsgesetzgebung. Der Entwurf vom 9. Juli 1918," reprinted from the review *Schweiz. Juristen Zeitung*, 15th year, No. 19 of April 1, 1919, pp. 4 and 7 *et seq.*

rich new legal subject area and to go through a new stage in the development of copyright, and it too has been achieved in a manner that should seem satisfactory to any fair-minded person — even though the Law does not present itself in a “popular” light — thanks to the fact that the negotiations on the whole took a far more favorable turn than at first seemed possible within the authorities and Parliament.<sup>15</sup>

Röthlisberger pointed out the obstacles to the understanding and popularity of the new Law:

Let us not forget that it is a question of introducing in our legal life the condensed result of several decades of reflection in the form of a Law that is at once concise and clear and indicates the direction of development.<sup>16</sup> Yet it is only gradually that society will assimilate in its legal consciousness that which it really owes to the creators of literary and artistic works.<sup>17</sup>

The text of the Convention as revised at Berlin was the driving force that set Swiss legislation in motion and enabled it to achieve fruition. The 1922 Law went beyond the limits of the protection of literary and artistic works set *jure conventionis* by the Berlin Act. In spite of some exceptions, it afforded authors fair and efficacious protection. The term of protection remained fixed at 30 years with the express consent of the Society of Swiss Writers.<sup>18</sup>

The 1922 Law is still in force, with some amendments corresponding to the Rome and Brussels Acts of the Convention. In this Law Swiss legislation aligned itself on the scope of copyright in neighboring countries. It was fair and adequate, but it did not contain either ideas or original formulas that might serve as models for the drafting of a broadened text of the Convention.

There is no indication of any influence that the 1922 Law may have had on the 1928 Rome revision of the Convention.

Swiss legislation was not impressed by the insertion at Rome of Article 6<sup>bis</sup> in the text of the Convention. Legal writers and the courts agreed in their view that the protection of the private person deriving from application of Article 28 of the Civil Code enshrined all the prerogatives mentioned in Article 6<sup>bis</sup>.<sup>19</sup>

This conviction prevented Swiss legislation from concerning itself with the protection of the moral interests of authors when the 1922 Law was adapted to the text of the Convention as revised at Brussels. This partial revision of the 1922 Law removed the other differences existing between the provisions of

the Convention and those of national law (Federal Law of June 24, 1955, entry into force December 1, 1955). The problem of the conformity of Article 28 of the Civil Code with Article 6<sup>bis</sup> of the Convention is dealt with below.

The influence of the Convention on Swiss national law is reflected in exemplary fashion, with respect to principles, in Article 68<sup>bis</sup> of the 1955 Law:

The works of Swiss nationals and those works first published in Switzerland shall enjoy the more extensive protection afforded by the provisions, in their most recent wording approved by Switzerland, of the Berne Convention for the Protection of Literary and Artistic Works.

A better wording of the same declaration appears in Article 2 of the draft Federal Law on Copyright presented by the Federal Council (August 29, 1984):

Application of international treaties. A claim may also be made for the more extensive protection afforded by agreements on copyright to which Switzerland is party.

#### V. The Drafting of a New Swiss Law and Adaptation to the Paris Act of the Convention

It is not within the terms of reference of this article to describe the long and complex path leading to the drafting of a new Swiss law, or to explain and excuse or justify — always assuming that this is possible — the amazing delay in the ratification of the Paris Act of the Convention. The Federal Council message of August 29, 1984, is informative in this respect. Adaptation to the text of the Paris Act of the 1922 Law as revised in 1955 would not call for major amendments, except with respect to the error according to which Article 28 of the Civil Code is capable of affording protection that conforms to Article 6<sup>bis</sup> of the Convention. Work has been undertaken and conducted with the objective of producing a clear and simple law that does not content itself with following in the footsteps of the Convention, and one which can take its place alongside the laws of neighboring countries and provoke further discussion of the copyright problems still outstanding. It is in this respect that the draft could serve as a starting point for the amendment of Article 6<sup>bis</sup>, which is neither conceptually clear nor sufficiently general. What the Federal Council message says on present Swiss law is equally valid for Article 6<sup>bis</sup>:

The protection of the moral interests of the author in relation to his work has to be strengthened and regulated in a systematic and clearer fashion. By dissociating those interests from the general protection of the private person, one highlights the subject matter of protection, namely the intellectual or personal interests of the author in relation to his work, and, consequently, the integrity of the relations existing between the author and his work. Such protection is more substantial than the protection of the private person, which concerns only

<sup>15</sup> E. Röthlisberger/B. Mentha, *Schweiz. Urheber- und Verlagsrecht an Werken der Literatur und Kunst*, 2nd edition, Zurich, 1932, p. 9.

<sup>16</sup> E. Röthlisberger (see note 14), p. 16.

<sup>17</sup> E. Röthlisberger, “Das neue schweiz. Urheberrechtsgesetz vom 7. Dezember 1922,” *Schweiz. Juristen Zeitung*, 1923, p. 59.

<sup>18</sup> A. Troller, *Immaterialgüterrecht*, 3rd edition, Vol. I, p. 124.

<sup>19</sup> *Ibid.* (see note 19), p. 89, note 67.

the author's reputation and honor. Even a major mutilation of the work would not necessarily do any harm to those two attributes of the private person.<sup>20</sup>

The draft specifies the prerogatives concerned one after the other. The misunderstanding caused by Article 6<sup>bis</sup> in the context of the theory of moral rights was once an obstacle to the United States of America's accession to the Berne Union. Another part of the draft, which has to do with the protection of moral interests, could also serve as a basis for discussions on the development of the Convention text. That is the section that regulates the relations between the author and the owner of a copy of the work, taking due account of the conflict between copyright and physical ownership.

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<sup>20</sup> Federal Council message concerning the Federal Law on Copyright ... of August 29, 1984, p. 17.

It may be said that these are details and refinements that national legislation can concern itself with, and yet they are problems that frequently present themselves to judges and lawyers. As there is little possibility of broadening the scope of protection granted *jure conventionis*, the time may have come to reflect on the text of a uniform law, and to discuss it, fully aware that the goal is a very remote one and that present circumstances are not conducive to an enterprise of such scope.

These comments — I dare not present them as suggestions — are included in this article lest it leave the disappointing impression that Swiss legislation and lawyers are no longer capable of either initiative or original thought in matters of copyright.

(WIPO translation)

## Activities of Other Organizations

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

#### Legal and Legislation Committee

(Brussels, May 6 to 9, 1986)

The Legal and Legislation Committee of the International Confederation of Societies of Authors and Composers (CISAC) met in Brussels from May 6 to 9, 1986, at the invitation of the Belgian authors' society, SABAM. The members participating in the meeting came from the following countries: Australia, Austria, Belgium, Czechoslovakia, Finland, France, Germany (Federal Republic of), Greece, Hungary, Israel, Italy, Netherlands, Poland, Soviet Union, Spain, Sweden, Switzerland, United Kingdom, United States of America. WIPO was represented by Mr. Mihály Ficsor, Director, Copyright Law Division. Unesco and the International Literary and Artistic Association (ALAI) were also represented.

The meeting of the Committee was preceded by a solemn session celebrating the centenary of the Belgian Copyright Law, which was also attended by H.M. Fabiola, the Queen of Belgium, and by Mr. Mundeleer, Secretary of State for Justice.

The Committee heard, in particular, presentations by its members on the following subjects:

— The implications of Article 8.I of the Copyright Law of France of July 3, 1985 (term of protection *post mortem auctoris* increased to 70 years for musical works) (Mr. T. Desurmont, France),

— Article 22(a) of the Copyright Law of Denmark in the light of the Treaty of Rome and this

Article's repercussions on KODA's reciprocal representation contracts with regard to cable distribution (Mr. J. Eskola, Finland),

— Legal system governing the protection of works transmitted by direct broadcasting satellites (Mr. W. Dillenz, Austria),

— Legal status of the translator/adaptor after the expiration of the sub-publishing contract (Mr. P. Liechti, Switzerland),

— Legal status of the videoclip (Prof. J. Corbet, Belgium),

— Role of the authors' societies in the defense of the moral rights of authors (Mr. R. du Bois, Netherlands),

— Model provisions for national laws on employed authors (Unesco/WIPO Committee of Experts, Geneva, January 27 to 31, 1986) (Prof. M. Fabiani, Italy).

Each of the above presentations was followed by a lively discussion, in the course of which the Committee was also informed of recent developments in the related activities by WIPO in the fields of copyright and neighboring rights.

At the end of the meeting the Committee adopted a draft declaration on the occasion of the centenary of the Berne Convention, which will be submitted to the Congress of CISAC to be held in Madrid, from October 6 to 11, 1986.



## Calendar of Meetings

### Commemoration of the Centenary of the Berne Convention

The official celebration of the Centenary of the Berne Convention will be held in Berne on September 11, 1986, at the invitation of the Swiss Government. The Assembly of the Berne Union will hold an extraordinary session on that occasion.

So far we have received information on the following other commemorative events by international non-governmental organizations and national organizations:

- September 8 to 12 (Berne) — Congress of the International Literary and Artistic Association (ALAI) in the framework of which the Centenary will be celebrated
- September 25 and 26 (Mexico City) — Commemoration of the Centenary in the framework of the Copyright Workshop for Latin American Countries organized by WIPO and the Mexican Institute of Copyright
- October 5 to 11 (Madrid) — Congress of the International Confederation of Societies of Authors and Composers (CISAC) in the framework of which the Centenary will be celebrated
- November 18 to 21 (Cracow) — Commemoration of the Centenary in the framework of a Seminar organized by the Jagiellonian University
- November 24 to 28 (New Delhi) — Commemoration of the Centenary in the framework of the Regional Workshop on Copyright and Neighboring Rights organized by WIPO and the Government of India

### WIPO Meetings

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

#### 1986

- July 2 to 4 (Geneva) — Working Group on Links Between the Madrid Agreement and the Proposed (European) Community Trade Mark
- September 1 to 5 (Geneva) — Permanent Committee on Patent Information (PCPI) and PCT Committee for Technical Cooperation (PCT/CTC)
- September 8 to 10 (Geneva) — WIPO Patent and Trademark Information Fair
- September 8 to 12 (Geneva) — Governing Bodies (WIPO Coordination Committee, Executive Committees of the Paris and Berne Unions, Assembly of the Berne Union)
- October 13 to 17 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on General Information
- October 20 to 22 (Geneva) — Committee of Governmental Experts on Works of Architecture
- November 11 to 14 (Geneva) — Committee of Experts on the International Registration of Marks
- November 17 to 21 (Geneva) — Paris Union: Committee of Experts on the Harmonization of Certain Provisions in Laws for the Protection of Inventions
- November 24 to December 5 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Group on Search Information
- December 8 to 12 (Geneva) — Permanent Committee on Patent Information (PCPI): Working Groups on Special Questions and on Planning
- December 16 to 19 (Paris) — Committee of Governmental Experts on Works of Visual Art

## UPOV Meetings

### 1986

July 15 to 18 (Wageningen) — Technical Working Party for Ornamental Plants and Forest Trees, and Subgroup

September 15 to 19 (Wädenswil) — Technical Working Party for Fruit Crops, and Subgroup

November 18 and 19 (Geneva) — Administrative and Legal Committee

November 20 and 21 (Geneva) — Technical Committee

December 1 (Paris) — Consultative Committee

December 2 and 3 (Paris) — Council

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

### Non-Governmental Organizations

### 1986

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

October 6 to 11 (Madrid) — International Confederation of Societies of Authors and Composers (CISAC) — Congress

October 20 to 23 (Vienna) — International Federation of Musicians (FIM) — Congress

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