

Report title:

34th Session of WIPO Standing Committee on Copyright and Related Rights (SCCR)

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This was a hectic meeting. The urge to present to the forthcoming UN General Assembly a mature draft for a treaty on the protection of broadcasters was in vain, the question whether limitations and exceptions (L & E) should stay on the agenda was in sharp debate, and even the position of re-sale right for visual artist and the alleged lack of transparency in remuneration for authors is not safe on the agenda. It seemed that the only consensus was on Prof. Pierre Sirinelli speech, in which he called a spade a spade and invited WIPO member states to put the author back in focus of the discussion.

Protection of Broadcasting Organizations

The result of the intensive informal discussions on that matter was a more controversial draft that cannot be submitted to the general assembly. After 20 (!) years of discussion, it still seems that the way to a legal instrument for broadcasters is not paved, while East calls for protection of signal only, in its classical sense, and West calls to consider the modern and current methods for broadcast and protect also cable casting, non-simultaneous broadcast, differed transmissions and pre-broadcasting signals.

Limitations and Exceptions (L & E) for Libraries and Archives

The question discussed in the matter is whether to leave the issue on the agenda or settle with inter-regional discussions for the exchange of opinions and best practices, considering the extensive experience that some member states have accumulated. The African and Latin American groups thought it is necessary to establish a binding legal instrument¹. Western member states supported drafting of a document containing only guidelines for action.

L & E for Education and Research Institutions

Here too, Latin America and Africa Groups wished to continue working on the chart prepared by the Chair² with the intention of reaching a legal instrument that insures access to knowledge, while Western groups' position was that a current licensing regime is sufficient. Maybe the forthcoming results of Professor Daniel Seng's study on L & E for

¹ http://www.wipo.int/edocs/mdocs/copyright/en/sccr_29/sccr_29_4.pdf (Africa),
http://www.wipo.int/edocs/mdocs/copyright/en/sccr_33/sccr_33_4.pdf (Argentina).

² http://www.wipo.int/edocs/mdocs/copyright/en/sccr_33/sccr_33_chart_on_education_and_research.pdf

Educational Activities³, shall push for a decision if this item stays on agenda or not. The study is planned to address the applicability of the Berne Convention Annex to state law as well as state law on contracts, responsibility for educational institutions, and translation.

Deputy Director General, Sylvie Forbin, presented the WIPO initiative to assess the extent and type of consumption of protected works in education, since promoting education in the world is one of the stated goals of the United Nations. Forbin explained that WIPO can prepare a joint research on licenses for intellectual property exploitation and advanced licensing models, identify common values and create a 'toolkit' or 'guide for best practices' and by doing so strengthen the publishing sector in each member state. A questionnaire was handed out to all member states regarding that topic.

L & E for Persons with Disabilities (other than print)

Professors Blake Reid (USA) and his team gave preliminary presentation on the topic. 15% of the world's population suffers from diverse types of disabilities, that is, about one billion people. They described very well that people with different disabilities need diverse types of adaptations to the protected works to enjoy them. Blake handed out a questionnaire for member states to collect data on status of implementation of rights for persons with other disabilities.

Resale Right for Visual Artists

Professor Kathryn Graddy (USA) presented an empirical study of the possible economic impact of re-sale right legislation for artists. She concluded that although theoretical research prospected negative effects on price and competitiveness in markets, empirical studies have shown no effect on price or competitiveness. Both Japan and USA objected to inclusion of this topic on the agenda from different reasons.

Analysis of Copyright Related to the Digital Environment

This initiative was presented by Latin America group to enhance transparency and secure remuneration to creators in the digital age⁴. Western groups thought the subject matter does not relate to copyright policy, but rather to inequalities in power to negotiate.

WIPO presented preliminary results of their study on 'The Impact of Digital Developments on the National Legal Frameworks Over the Last Decade'. It was discovered that laws since 2006 dealt mainly with right of reproduction / temporary copies, making available / digital transmissions, specific remuneration for rightsholders for digital exploitation, L & E for archives, museums, libraries, education, new (digital) players and internet intermediaries. Prof. Pierre Sirinelli (France) presented a summary of a seminar held by WIPO on Compatibility of Current Law to the Digital Era. He said that the approach of courts to interpret copyright law with strong regard to constitutional rights, e.g., freedom of expression, and also commercial considerations such as freedom of competition, created a situation that the author, who once stood in the center of copyright law, and her ability to

³ http://www.wipo.int/edocs/mdocs/copyright/en/sccr_33/sccr_33_6.pdf

⁴ http://www.wipo.int/edocs/mdocs/copyright/en/sccr_31/sccr_31_4.pdf

make a living out of her works was the purpose of the law, is not in focus anymore. The right to consume has taken the stage instead and major agreements are reached without her. Accordingly, he continued, we should try to put her back in the center or at least look after her interests and regain proper balance between the conflicting interests. His speech was received with great sympathy.

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