

WIPO Copyright Treaty, adopted by the Diplomatic Conference on December 20, 1996

World Intellectual Property Organization (WIPO)

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1 **WIPO Copyright Treaty**
2 **adopted by the Diplomatic Conference on**
3 **December 20, 1996**

4 **Preamble**

5 The Contracting Parties,

6 Desiring to develop and maintain the protection of the rights of
7 authors in their literary and artistic works in a manner as effective
8 and uniform as possible,

9 Recognizing the need to introduce new international rules and
10 clarify the interpretation of certain existing rules in order to provide
11 adequate solutions to the questions raised by new economic, social,
12 cultural and technological developments,

13 Recognizing the profound impact of the development and convergence
14 of information and communication technologies on the creation and use
15 of literary and artistic works,

16 Emphasizing the outstanding significance of copyright protection
17 as an incentive for literary and artistic creation,

18 Recognizing the need to maintain a balance between the rights of
19 authors and the larger public interest, particularly education,
20 research and access to information, as reflected in the Berne
Convention,

Have agreed as follows:

1 **Article 1 - Relation to the Berne Convention**

2 (1) This Treaty is a special agreement within the meaning of
3 Article 20 of the Berne Convention for the Protection of Literary
4 and Artistic Works, as regards Contracting Parties that are
5 countries of the Union established by that Convention. This
6 Treaty shall not have any connection with treaties other than

the Berne Convention, nor shall it prejudice any rights and obligations
under any other treaties.

(2) Nothing in this Treaty shall derogate from existing obligations
that Contracting Parties have to each other under the Berne Convention
for the Protection of Literary and Artistic Works.

(3) Hereinafter, "Berne Convention" shall refer to the Paris Act
of July 24, 1971 of the Berne Convention for the Protection of
Literary and Artistic Works.

(4) Contracting Parties shall comply with Articles 1 to 21 and
the Appendix of the Berne Convention.

15 **Article 2 - Scope of Copyright Protection**

16 Copyright protection extends to expressions and not to ideas,
17 procedures, methods of operation or mathematical concepts as
18 such.

17 **Article 3 - Application of Articles 2 to 6 of the Berne
Convention**

18 Contracting Parties shall apply mutatis mutandis the provisions
19 of Articles 2 to 6 of the Berne Convention in respect of the protection
20 provided for in this Treaty.

19 **Article 4 - Computer Programs**

20 Computer programs are protected as literary works within the
meaning of Article 2 of the Berne Convention. Such protection
applies to computer programs, whatever may be the mode or
form of their expression.

Article 5 - Compilations of Data (Databases)

22 Compilations of data or other material, in any form, which by
reason of the selection or arrangement of their contents con-
stitute intellectual creations, are protected as such. This pro-
tection does not extend to the data or the material itself and
is without prejudice to any copyright subsisting in the data or
material contained in the compilation.

Article 6 - Right of Distribution

24 (1) Authors of literary and artistic works shall enjoy the exclu-
sive right of authorizing the making available to the public of the
original and copies of their works through sale or other transfer
of ownership.

25 (2) Nothing in this Treaty shall affect the freedom of Contracting
Parties to determine the conditions, if any, under which the ex-
haustion of the right in paragraph (1) applies after the first sale
or other transfer of ownership of the original or a copy of the
work with the authorization of the author.

Article 7 - Right of Rental

27 (1) Authors of:

28 (i) computer programs;

29 (ii) cinematographic works; and

30 (iii) works embodied in phonograms as determined in the na-
tional law of Contracting Parties,

31 shall enjoy the exclusive right of authorizing commercial rental
to the public of the originals or copies of their works.

32 (2) Paragraph (1) shall not apply:

3321 (i) in the case of computer programs where the program itself
is not the essential object of the rental; and

(ii) in the case of cinematographic works, unless such commer- 34
cial rental has led to widespread copying of such works mate-
rially impairing the exclusive right of reproduction.

(3) Notwithstanding the provisions of paragraph (1), a Contract- 35
ing Party that, on April 15, 1994, had and continues to have
in force a system of equitable remuneration of authors for the
rental of copies of their works embodied in phonograms may
maintain that system provided that the commercial rental of
works embodied in phonograms is not giving rise to the ma-
terial impairment of the exclusive rights of reproduction of au-
thors.

Article 8 - Right of Communication to the Public

Without prejudice to the provisions of Articles 11(1)(ii), 37
11bis(1)(i) and (ii), 11ter(1)(ii), 14(1)(ii) and 14bis(1) of the
Berne Convention, authors of literary and artistic works shall
enjoy the exclusive right of authorizing any communication to
the public of their works, by wire or wireless means, including
the making available to the public of their works in such a way
that members of the public may access these works from a
place and at a time individually chosen by them.

Article 9 - Duration of the Protection of Photographic Works

In respect of photographic works, the Contracting Parties shall 39
not apply the provisions of Article 7(4) of the Berne Conven-
tion.

Article 10 - Limitations and Exceptions

41 (1) Contracting Parties may, in their national legislation, provide
for limitations of or exceptions to the rights granted to authors
of literary and artistic works under this Treaty in certain special
cases that do not conflict with a normal exploitation of the work
and do not unreasonably prejudice the legitimate interests of
the author.

42 (2) Contracting Parties shall, when applying the Berne Conven-
tion, confine any limitations of or exceptions to rights provided
for therein to certain special cases that do not conflict with a nor-
mal exploitation of the work and do not unreasonably prejudice
the legitimate interests of the author.

43 Article 11 - Obligations concerning Technological Measures

44 Contracting Parties shall provide adequate legal protection and
effective legal remedies against the circumvention of effective
technological measures that are used by authors in connection
with the exercise of their rights under this Treaty or the Berne
Convention and that restrict acts, in respect of their works,
which are not authorized by the authors concerned or permitted
by law.

45 Article 12 - Obligations concerning Rights Management Information

46 (1) Contracting Parties shall provide adequate and effective le-
gal remedies against any person knowingly performing any of
the following acts knowing or, with respect to civil remedies hav-
ing reasonable grounds to know, that it will induce, enable, fa-
cilitate or conceal an infringement of any right covered by this
Treaty or the Berne Convention:

40 (i) to remove or alter any electronic rights management infor- 47
mation without authority;

(ii) to distribute, import for distribution, broadcast or communi- 48
cate to the public, without authority, works or copies of works
knowing that electronic rights management information has
been removed or altered without authority.

(2) As used in this Article, "rights management information" 49
means information which identifies the work, the author of the
work, the owner of any right in the work, or information about
the terms and conditions of use of the work, and any numbers or
codes that represent such information, when any of these items
of information is attached to a copy of a work or appears in con-
nection with the communication of a work to the public.

Article 13 - Application in Time

50 Contracting Parties shall apply the provisions of Article 18 51
of the Berne Convention to all protection provided for in this
Treaty.

Article 14 - Provisions on Enforcement of Rights

(1) Contracting Parties undertake to adopt, in accordance with 53
their legal systems, the measures necessary to ensure the ap-
plication of this Treaty.

(2) Contracting Parties shall ensure that enforcement proce- 54
dures are available under their law so as to permit effective
action against any act of infringement of rights covered by this
Treaty, including expeditious remedies to prevent infringements
and remedies which constitute a deterrent to further infringe-
ments.

Article 15 - Assembly

56 (1)

57 (a) The Contracting Parties shall have an Assembly.

58 (b) Each Contracting Party shall be represented by one delegate who may be assisted by alternate delegates, advisors and experts.

59 (c) The expenses of each delegation shall be borne by the Contracting Party that has appointed the delegation. The Assembly may ask the World Intellectual Property Organization (hereinafter referred to as "WIPO") to grant financial assistance to facilitate the participation of delegations of Contracting Parties that are regarded as developing countries in conformity with the established practice of the General Assembly of the United Nations or that are countries in transition to a market economy.

60 (2)

61 (a) The Assembly shall deal with matters concerning the maintenance and development of this Treaty and the application and operation of this Treaty.

62 (b) The Assembly shall perform the function allocated to it under Article 17(2) in respect of the admission of certain intergovernmental organizations to become party to this Treaty.

63 (c) The Assembly shall decide the convocation of any diplomatic conference for the revision of this Treaty and give the necessary instructions to the Director General of WIPO for the preparation of such diplomatic conference.

64 (3)

65 (a) Each Contracting Party that is a State shall have one vote and shall vote only in its own name.

66 (b) Any Contracting Party that is an intergovernmental orga-

55 nization may participate in the vote, in place of its Member States, with a number of votes equal to the number of its Member States which are party to this Treaty. No such intergovernmental organization shall participate in the vote if any one of its Member States exercises its right to vote and vice versa.

(4) The Assembly shall meet in ordinary session once every two years upon convocation by the Director General of WIPO. 67

(5) The Assembly shall establish its own rules of procedure, including the convocation of extraordinary sessions, the requirements of a quorum and, subject to the provisions of this Treaty, the required majority for various kinds of decisions. 68

Article 16 - International Bureau 69

The International Bureau of WIPO shall perform the administrative tasks concerning the Treaty. 70

Article 17 - Eligibility for Becoming Party to the Treaty 71

(1) Any Member State of WIPO may become party to this Treaty. 72

(2) The Assembly may decide to admit any intergovernmental organization to become party to this Treaty which declares that it is competent in respect of, and has its own legislation binding on all its Member States on, matters covered by this Treaty and that it has been duly authorized, in accordance with its internal procedures, to become party to this Treaty. 73

(3) The European Community, having made the declaration referred to in the preceding paragraph in the Diplomatic Conference that has adopted this Treaty, may become party to this Treaty. 74

75 **Article 18 - Rights and Obligations under the Treaty**

76 Subject to any specific provisions to the contrary in this Treaty,
each Contracting Party shall enjoy all of the rights and assume
all of the obligations under this Treaty.

77 **Article 19 - Signature of the Treaty**

78 This Treaty shall be open for signature until December 31,
1997, by any Member State of WIPO and by the European
Community.

79 **Article 20 - Entry into Force of the Treaty**

80 This Treaty shall enter into force three months after 30 in-
struments of ratification or accession by States have been
deposited with the Director General of WIPO.

81 **Article 21 - Effective Date of Becoming Party to the
Treaty**

82 This Treaty shall bind

83 (i) the 30 States referred to in Article 20, from the date on which
this Treaty has entered into force;

84 (ii) each other State from the expiration of three months from
the date on which the State has deposited its instrument with
the Director General of WIPO;

85 (iii) the European Community, from the expiration of three
months after the deposit of its instrument of ratification or
accession if such instrument has been deposited after the
entry into force of this Treaty according to Article 20, or,
three months after the entry into force of this Treaty if such

instrument has been deposited before the entry into force of
this Treaty;

(iv) any other intergovernmental organization that is admitted to 86
become party to this Treaty, from the expiration of three months
after the deposit of its instrument of accession.

Article 22 - No Reservations to the Treaty 87

No reservation to this Treaty shall be admitted. 88

Article 23 - Denunciation of the Treaty 89

This Treaty may be denounced by any Contracting Party by 90
notification addressed to the Director General of WIPO. Any
denunciation shall take effect one year from the date on which
the Director General of WIPO received the notification.

Article 24 - Languages of the Treaty 91

(1) This Treaty is signed in a single original in English, Ara- 92
bic, Chinese, French, Russian and Spanish languages, the ver-
sions in all these languages being equally authentic.

(2) An official text in any language other than those referred to 93
in paragraph (1) shall be established by the Director General of
WIPO on the request of an interested party, after consultation
with all the interested parties. For the purposes of this para-
graph, "interested party" means any Member State of WIPO
whose official language, or one of whose official languages, is
involved and the European Community, and any other intergov-
ernmental organization that may become party to this Treaty, if
one of its official languages is involved.

Article 25 - Depositary

94

95 The Director General of WIPO is the depositary of this Treaty.

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