

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

World Intellectual Property Organization (WIPO)

copy @ lexmercatoria.org

Copyright © 1996 World Intellectual Property Organization
(WIPO)

Contents

Metadata	7
SiSU Metadata, document information	7

WIPO Copyright Treaty

adopted by the Diplomatic Conference on December 20, 1996	1
Preamble	1
Article 1 - Relation to the Berne Convention	1
Article 2 - Scope of Copyright Protection	1
Article 3 - Application of Articles 2 to 6 of the Berne Convention	1
Article 4 - Computer Programs	1
Article 5 - Compilations of Data (Databases)	2
Article 6 - Right of Distribution	2
Article 7 - Right of Rental	2
Article 8 - Right of Communication to the Public	2
Article 9 - Duration of the Protection of Photographic Works	2
Article 10 - Limitations and Exceptions	3
Article 11 - Obligations concerning Technological Measures	3
Article 12 - Obligations concerning Rights Management Information	3
Article 13 - Application in Time	3
Article 14 - Provisions on Enforcement of Rights	3
Article 15 - Assembly	4
Article 16 - International Bureau	4
Article 17 - Eligibility for Becoming Party to the Treaty	4
Article 18 - Rights and Obligations under the Treaty	5
Article 19 - Signature of the Treaty	5
Article 20 - Entry into Force of the Treaty	5
Article 21 - Effective Date of Becoming Party to the Treaty	5
Article 22 - No Reservations to the Treaty	5
Article 23 - Denunciation of the Treaty	5
Article 24 - Languages of the Treaty	5
Article 25 - Depositary	6

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

4 **Preamble**

5 The Contracting Parties,

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

9 Recognizing the need to introduce new international rules and clar-
ify the interpretation of certain existing rules in order to provide ad-
equade solutions to the questions raised by new economic, social,
cultural and technological developments,

6 Recognizing the profound impact of the development and conver-
gence of information and communication technologies on the crea-
tion and use of literary and artistic works,

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

8 Recognizing the need to maintain a balance between the rights of
authors and the larger public interest, particularly education, re-
search and access to information, as reflected in the Berne Con-
vention,

9 Have agreed as follows:

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

11 (1) This Treaty is a special agreement within the meaning of Arti-
cle 20 of the Berne Convention for the Protection of Literary and
Artistic Works, as regards Contracting Parties that are countries
of the Union established by that Convention. This Treaty shall not

have any connection with treaties other than the Berne Conven-
tion, 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 Con-
vention for the Protection of Literary and Artistic Works. 12

(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. 13

(4) Contracting Parties shall comply with Articles 1 to 21 and the
Appendix of the Berne Convention. 14

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

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

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

18 Contracting Parties shall apply mutatis mutandis the provisions of
Articles 2 to 6 of the Berne Convention in respect of the protection
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.

21 **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 constitute intellectual creations, are protected as such. This protection 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.

23 **Article 6 - Right of Distribution**

24 (1) Authors of literary and artistic works shall enjoy the exclusive 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 exhaustion 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.

26 **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 national 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:

(i) in the case of computer programs where the program itself is not the essential object of the rental; and 33

(ii) in the case of cinematographic works, unless such commercial rental has led to widespread copying of such works materially impairing the exclusive right of reproduction. 34

(3) Notwithstanding the provisions of paragraph (1), a Contracting 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 material impairment of the exclusive rights of reproduction of authors. 35

Article 8 - Right of Communication to the Public 36

Without prejudice to the provisions of Articles 11(1)(ii), 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. 37

Article 9 - Duration of the Protection of Photographic Works 38

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

40 **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 Convention,
confine any limitations of or exceptions to rights provided for therein
to certain special cases that do not conflict with a normal exploita-
tion 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 ef-
fective legal remedies against the circumvention of effective tech-
nological 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 au-
thorized 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 legal
remedies against any person knowingly performing any of the fol-
lowing acts knowing or, with respect to civil remedies having rea-
sonable grounds to know, that it will induce, enable, facilitate or
conceal an infringement of any right covered by this Treaty or the
Berne Convention:

(i) to remove or alter any electronic rights management information 47
without authority;

(ii) to distribute, import for distribution, broadcast or communicate 48
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” means 49
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 rep-
resent such information, when any of these items of information
is attached to a copy of a work or appears in connection with the
communication of a work to the public.

Article 13 - Application in Time 50

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

Article 14 - Provisions on Enforcement of Rights 52

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

(2) Contracting Parties shall ensure that enforcement procedures 54
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 infringements.

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.

- 6655 (b) Any Contracting Party that is an intergovernmental organization 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

The International Bureau of WIPO shall perform the administrative tasks concerning the Treaty. 69

Article 17 - Eligibility for Becoming Party to the Treaty

- (1) Any Member State of WIPO may become party to this Treaty. 71
- (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. 72
- (3) The European Community, having made the declaration referred to in the preceding paragraph in the Diplomatic Con- 73

ference that has adopted this Treaty, may become party to this Treaty.

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 instruments 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 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

No reservation to this Treaty shall be admitted.

Article 23 - Denunciation of the Treaty

This Treaty may be denounced by any Contracting Party by 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

(1) This Treaty is signed in a single original in English, Arabic, Chinese, French, Russian and Spanish languages, the versions in all these languages being equally authentic.

(2) An official text in any language other than those referred to 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 paragraph, "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 intergovernmental organization that may become party to this Treaty, if one of its official languages is involved.

94 **Article 25 - Depositary**

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

Metadata

SiSU Metadata, document information

Document Manifest @:

http://www.jus.uio.no/lm/wipo.copyright.treaty.1996/sisu_manifest.html

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

Creator: World Intellectual Property Organization (WIPO)

Rights: Copyright (C) 1996 World Intellectual Property Organization (WIPO)

Subject: copyright, intellectual property

Publisher: SiSU <http://www.jus.uio.no/sisu> (this copy)

Date: 1996-12-20

Topics Registered: World Intellectual Property Organization:copyright:treaty;intellectual property:copyright:treaty

Version Information

Sourcefile: wipo.copyright.treaty.1996.sst

Filetype: SiSU text 2.0

Source Digest: SHA256(wipo.copyright.treaty.1996.sst)=c23db8fc94496527-79b5976b4cdc2ac24666e289d9301211662c606287bf23e1

Skin Digest: SHA256(skin_lm.rb)=5acda64a9532f9ef6b71693da2b471d4efac2f23-a8499e68de066eec8ea9b8e9

Generated

Document (dal) last generated: Tue Sep 21 18:17:47 -0400 2010

Generated by: SiSU 2.6.3 of 2010w30/3 (2010-07-28)

Ruby version: ruby 1.8.7 (2010-08-16 patchlevel 302) [i486-linux]