

WIPO COPYRIGHT DEVELOPMENTS: SCCR UPDATE

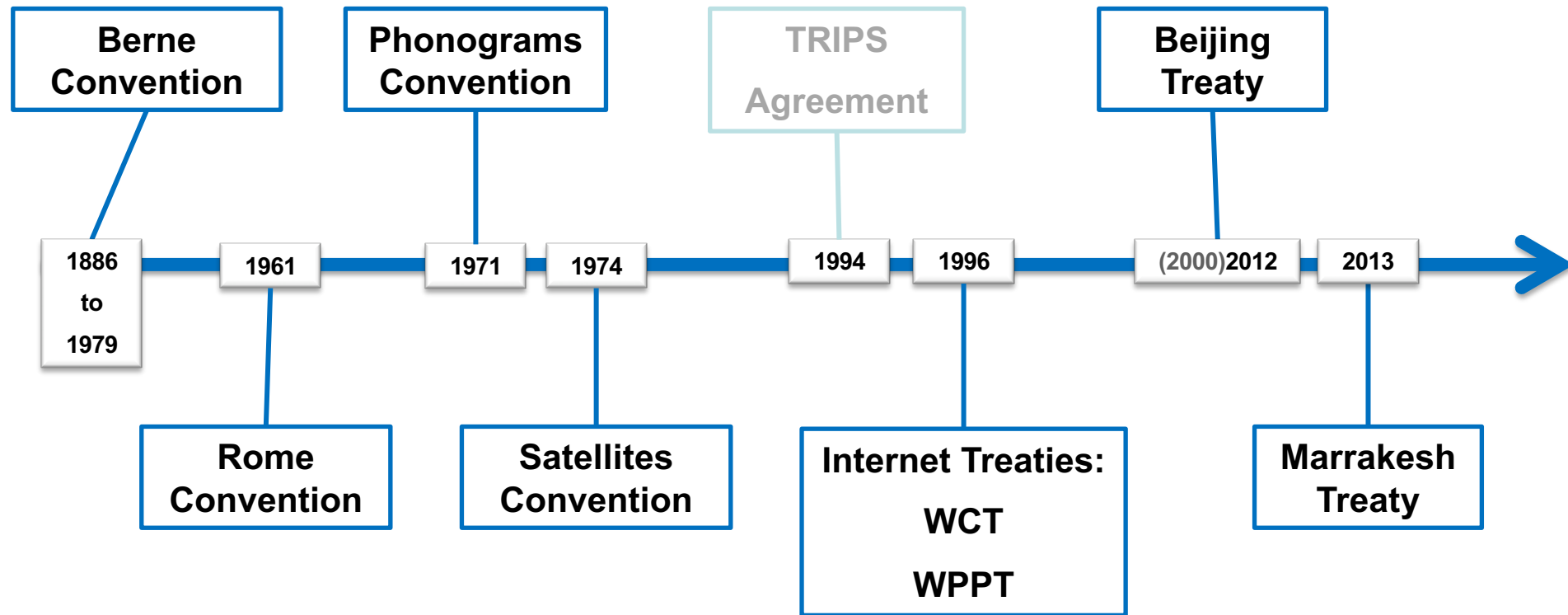
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WIPO Mandate and Assistance

- Advocate for and explain the multilateral copyright system
- Technical assistance for joining WIPO copyright treaties
- Legislative advice for updating national copyright laws
- Technical assistance, capacity building and infrastructure for efficient collective copyright management
- Accessible Books Consortium and Publishers Circles
- Possible treaty on the protection of broadcasting organizations
- SCCR ongoing negotiations and discussions on limitations and exceptions, issues related to copyright in the digital era, possible new topics

International Framework in Copyright



Membership of Certain Copyright and Related Rights Treaties

- Berne Convention (1886):
 - 177/192 members
- Rome Convention (1961):
 - 94/192 members
- WIPO Copyright Treaty (1996):
 - 102/192 members
- WIPO Performances and Phonograms Treaty (1996):
 - 102/192 members
- Beijing Treaty on Audiovisual Performances (2012):
 - 26/192 members (not yet in force – 30 needed)
- Marrakesh Treaty (2013):
 - 57/192 members (covering 84 Member States)

Support for Treaty Membership

- Frequent reason for legislative assistance requests
- Missions for stakeholder or parliamentary consultations
- Implementation seminars and workshops
- Support for formation and operation of collective management organizations

Legislative Assistance

- Based on Member State requests: “demand driven”
- Confidential on WIPO side
- Ranges from drafting first copyright law to updating law to comply with latest treaties
- Average current capacity is about 10 projects per year
- Increasing demand

SCCR/38 Agenda

- Protection of broadcasting organizations
- Limitations and exceptions
 - Libraries and archives
 - Education and research institutions
 - Other disabilities (than print disabilities)
- Other matters
 - Analysis of copyright related to the digital environment
 - Resale right
 - Rights of theatre directors

Meeting held April 1-5, 2019

Protection of Broadcasting Organizations



Broadcasting Organizations

Rights of broadcasting organizations are recognized because their **financial and organizational resources** are necessary to disseminate content to the public.



Late 30's – Broadcasting boom!

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Broadcasting: 2007 Mandate

- *“...[T]o negotiate and conclude a WIPO Treaty on the protection of broadcasting organizations, including cablecasting organizations. The scope of the Treaty will be confined to the protection of broadcasting and cablecasting organizations in the traditional sense.”*
- *The “SCCR should aim to agree and finalize, on a signal-based approach, the objectives, specific scope and object of protection.”*

Broadcasting – 2018 General Assembly Decision

- The WIPO General Assembly “*directed the SCCR to:*
 - *(a) make best efforts to achieve consensus on the remaining outstanding issues related to the proposed treaty on the protection of broadcasting organizations during SCCR/37 and SCCR/38 and*
 - *(b) take stock of the progress made at SCCR/38 and if consensus has been reached on outstanding issues, propose a recommendation to the General Assembly to approve a date and venue for a diplomatic conference to adopt the treaty.’*

Broadcasting – 2019 General Assembly Recommendation

In view of the steady progress made in recent SCCR sessions, the GA invites the SCCR to **continue its work towards convening a diplomatic conference for the adoption of a treaty on the protection of broadcasting organizations, aiming for the 2020/2021 biennium, subject to Member States reaching consensus in the SCCR on the fundamental issues, including specific scope, object of protection and rights to be granted.**

Some Broadcasting Draft Treaty Articles

- Definition of Signal
- Definition of Broadcast
- Definition of Transmission
- Scope of Application
- Beneficiaries of Protection
- National Treatment
- Nature of Protection for Broadcasting Organizations
- Limitations and Exceptions
- Term of Protection
- Encryption; Rights Management Information; Technological Protection Measures

Some Key Issues That Have Been Discussed:

■ *Revised Consolidated Text on Definitions, Object of Protection, and Rights to be Granted:*

- Definitions
 - Deferred transmission
 - Broadcasting / cablecasting organizations
- Object of Protection
 - Cablecasting Organizations – opt in, opt out, another solution
- Rights to be Granted/Protection
 - Single right to authorize or prohibit (re)transmission
 - Application to pre-broadcast signal

Basis for Discussion During SCCR

■ Issues to be discussed further:

- **Deferred transmission/post-fixation of signal**
- Term of protection
- Limitations and exceptions
- Technical protection measures
- Rights management information

Limitations and exceptions

- Libraries, archives and museums
- Education and research
- Persons with other disabilities

L&E Action Plans Through 2019

- LIBRARIES, ARCHIVES, MUSEUMS, EDUCATION:
Regional seminars and conference; typologies and studies
- LIBRARIES: Brainstorming exercise
- EDUCATION AND RESEARCH INSTITUTIONS:
Regional seminars and conference; typology and study on digital issues
- DISABILITIES: Update and expand study and hold side event

Regional Seminars and Conference

- Asia and Pacific Group – Singapore, April 2019
- African Group – Nairobi, June 2019
- Group of Latin American and Caribbean Countries – Santo Domingo, July 2019
- Conference before SCCR – October 18 and 19, 2019

Other Matters

- Analysis of copyright related to the digital environment
- Resale right
- Rights of theatre directors

Other Matters – Copyright in the Digital Environment

- Many interrelated topics:
 - “Value chain” and “value gap”
 - Transparency
 - Efficient functioning of CMOs
 - Cross-border issues
- Goal is a discussion not a treaty - proponents
- Strong stakeholder interest

Other Matters – Copyright in the Digital Environment cont.

- *“..the Committee welcomed the proposal of Brazil that a further study be undertaken, focused on digital music services in the initial stages, which could be followed later by complementary studies on audiovisual and literary works.”*
- Member State and Observer initial (public) contributions were due on March 31.
- Further update to be given at SCCR/39.

Other Matters – Droit de Suite/Resale Right

- Ensuring compensation to visual artists (creators of “plastic works”)
- Proposal from Congo and Senegal to include it in the agenda
- International campaign (study by Prof. Sam Ricketson)
- Support from Member States from different regions and 2016 conference
- Concern: allocation of time during SCCR



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Article 14ter Berne Convention

(1) The author, or after his death the persons or institutions authorized by national legislation, shall, with respect to original works of art and original manuscripts of writers and composers, enjoy the inalienable right to an interest in any sale of the work subsequent to the first transfer by the author of the work.

(2) The protection provided by the preceding paragraph may be claimed in a country of the Union only if legislation in the country to which the author belongs so permits, and to the extent permitted by the country where this protection is claimed.

(3) The procedure for collection and the amounts shall be matters for determination by national legislation.

Other Matters – Resale Right

- *“...set up a task force of Members and stakeholders to report back to the Committee regarding the practical elements of the artists’ resale royalty right.”*
- The task force will provide an interim report at SCCR/39.

Other Matters – Rights of Theater Directors

- Proposal from the Russian Federation tabled during SCCR/35
- Scoping study underway
- Update on the scoping study to be presented at SCCR/39

Thank you!



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