



WIPO

29th Session of the Standing Committee on
Copyright and Related Rights

Geneva, Switzerland, December 8 to 12, 2014

REPORT

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Standing Committee on Copyrights

Summary of meeting

The 29th session of the standing committee on Copyright and Related Rights (SCCR) took place in the new auditorium of WIPO in Geneva between December 8 and 12, 2014. The agenda included, inter alia, the following topics: Protection of broadcasting organisations and Limitations and exceptions for libraries/ archives as well as for educational and research institutions. During the session Prof. Kenneth Crews presented the “Study on Copyright Limitations and Exceptions for Libraries and Archives” contained in document SCCR/29/3, which constituted an update of a previous study undertaken also by Prof. Crews in 2008. The survey showed that the vast majority of countries provides for exemptions and limitations in their copyright laws for the benefit of libraries and archives. The discussion focused around the question, whether an international harmonization in this area would be desirable and if so, to what extent. The discussion will be continued during the 30th session of the SCCR, scheduled for June 29 to July 3, 2015.

Conclusions / observations

The agenda of the 29th session included the approval of the accreditation of the SCCR of certain non-governmental organisations (item 3), adoption of the draft report of the twenty-eight session (item 4), protection of broadcasting organizations (item 5), limitations and exceptions for libraries and archives (item 6) and limitations and exceptions for educational and research institutions and for persons with other disabilities (item 7).

With respect to the item “protection of broadcasting organizations”, the committee requested the secretariat to update the information contained in the technical background paper (document SCCR 7/8) and the 2010 study on “Current market and technology trends in the broadcasting sector” (document SCCR 19/12), dealing with current technological developments in broadcasting, with the aim of presenting the results of the study and providing opportunities for technical discussion at the 30th session.

The focus of the 29th session of the SCCR was clearly item 6 (Limitations and Exceptions for libraries and archives). Prof. Kenneth Crews, who had already been mandated by the committee in 2008 to provide a study on how countries

internationally would deal with copyright limitations and exceptions for libraries and archives (document SCCR/17/2), presented the delegates during the 29th session with the results of his updated study. According to Crews, the searchable database “WIPOLEX” fundamentally improved the search capabilities and did enable Crews and his team to gather information on the topic of the study in nearly all WIPO member states. According to the study, limitations and exceptions for libraries and archives are clearly fundamental to the copyright law of most countries. Only 33 out of 186 countries covered by the study were identified as having no copyright exceptions for libraries. The study also examined what kind of exemptions were granted under the relevant statutory law or common law system. The survey further covered questions including as to whether single or multiple copies would be allowed or whether such exemptions were limited to a particular purposes, e.g. for research purposes, in the relevant country examined.

After the delivery of the presentation by Prof. Crews, the delegates had the opportunity to address questions and to make comments. In particular, it was discussed whether a harmonization with respect to the limitations and exceptions for libraries and archives would be desirable. Some delegates argued that such harmonization would not be in alignment with the fundamental principle of territoriality, which, for instance, is laid down in the Berne Convention and the Rome Convention. Both Conventions state, that any exemptions and limitations shall be a matter for legislation on a national level. Other delegates argued in favour for harmonization and pointed out to the current developments in the EU insofar. The European Court of Justice (CJEU) has fostered harmonization of copyright law in the EU even outside current statutory law for instance regarding a unified definition of copyrighted “works” and also with respect to the requirements for “communication to the public” in various recent cases, including the long-awaited judgment of the CJEU in the Svensson -Case (C-466/12), in which the CJEU had pointed out that the communication must be directed at a new public.

The committee welcomed the presentation by Prof. Crews and the subsequent discussion and asked the secretariat to arrange before the next session for the preparation of a document that combines the document of the 2008 and the new study and would reflect the additional information on national library archive limitations and exemptions provided by delegations. The documents related to this agenda item are SCCR/26/3, SCCR/26/8, SCCR/29/3 and SCCR/29/4.

Commentary

The updated study by Prof. Kenneth Crews helped very much to gain an understanding on how the national laws of the 168 countries covered deal in their respective national law with exceptions and limitations for the benefit of libraries and archives. While some of the member states argued in favour of a harmonization regarding exemptions and limitations of copyright for the benefit of libraries and archives, other delegations raised the concern that such harmonisation would be in contradiction with the territoriality principle of copyright as, for example, defined in the Berne Convention. This discussion is to be continued during the 30th session of the SCCR.

Date

10 February 2015