

# Intellectual Property Law No. 11.723 of September 28, 1933 (updated)

(as amended by Decree-Laws Nos. 12.063/57 and 1.224/58,  
and Laws Nos. 20.098, 23.741, 24.249, 24.286, 24.870 and 25.036)

## TABLE DES MATIÈRES

|  | <i>Articles</i> |
|--|-----------------|
| Foreign Works .....  | 13 - 15         |
| Collaboration .....  | 16 - 26         |
| Special Provisions .....   | 27 - 36         |
| Publishing .....   | 37 - 44         |
| Performance .....  | 45 - 50         |
| Sale .....   | 51 - 55bis      |
| Performers .....   | 56              |
| Registration of Works .....  | 57 - 64         |
| National Intellectual Property Registry .....                      | 65 - 68         |
| Promotion of the Arts and Literature [Repealed] .....              | 69 - 70         |
| Penalties .....  | 71 - 78         |
| Preventive Measures .....  | 79              |
| Civil Procedure .....  | 80 - 82         |
| Denunciations to the National Intellectual Property Registry ..... | 83              |
| Transitional Provisions .....                                      | 84 - 89         |

**1.** (*Text amended by Law No. 25.036*). For the purposes of this law, scientific, literary and artistic works comprise writings of all types and scope, and include source and object computer programs; compilations of data and other materials; dramatic works, musical compositions and dramatico-musical works; cinematographic, choreographic and pantomime works; works of drawing, painting, sculpture and architecture; models and works of art or science applied to trade or industry; printed matter, plans and maps; plastics, photographs, recordings and phonograms; and finally any scientific, literary, artistic or didactic production, irrespective of its reproduction procedure.

Copyright protection shall cover the expression of ideas, procedures, methods of operation and mathematical concepts, but not those ideas, procedures, methods and concepts per se.

**2.** The right of ownership of a scientific, literary or artistic work shall include, for its author, the entitlement to dispose of, publish, perform and publicly exhibit, alienate, translate, adapt or authorize the translation of, and reproduce the work in any form.

**3.** The publisher of an anonymous or pseudonymous work shall, in relation thereto, assume the rights and obligations of the author, who may claim them for himself by providing proof of his status. Authors using pseudonyms may register them and acquire ownership thereof.

**4.** The holders of intellectual property rights shall be:

(a) the author of a work;

(b) his heirs or legal successors;

(c) those who have the author's permission to translate, revise, adapt, modify or transfer the work to the new resulting intellectual work;

(d) (*incorporated by Law No. 25.036*). Natural or legal persons whose employees have been contracted to devise a computer program and have produced such a program in the performance of their professional duties, unless stipulated otherwise.

**5.** *(Replaced by Law No. 24.870).* Ownership of intellectual works shall fall to the authors thereof during their lifetime, and to their heirs or legal successors for 70 years starting from January 1 of the year following the author's death.

In cases of works of collaboration, this period shall begin from January 1 of the year following the death of the last collaborating party. For posthumous works, the 70-year period shall begin from January 1 of the year following the death of the author.

In cases where an author dies without leaving any heirs, and his estate is declared to be vacant, the rights to which the author is entitled over his works shall pass to the State for the whole of the relevant legal period, without prejudice to the rights of third parties.

**6.** Heirs or legal successors may not oppose third parties republishing the works of the claimant, where they allow more than 10 years to elapse without preparing the publication of those works.

Nor may the heirs or legal successors oppose third parties translating the works of the claimant, once 10 years have elapsed after the latter's death.

In these cases, if there is no agreement between the third publisher and the heirs or legal successors concerning the conditions of printing or remuneration, both will be fixed by arbitration.

**7.** In addition to those published in an author's lifetime, posthumous works shall be considered to be those which would have been published during his lifetime, if at his death the same author leaves them revised, amended, annotated or corrected in a manner such that they are worthy of being considered new works.

**8.** *(Transcribed in the new text of Decree-Law 12.063).* The ownership of anonymous intellectual works belonging to institutions, corporations or legal persons shall last for 50 years from the date of publication of those works.

**9.** No person shall have the right, without permission of the authors or their legal successors, to publish a scientific, literary, artistic or musical production which has been annotated or copied during its reading, performance or exhibition, be it public or private.

*(Paragraph incorporated by Law No. 25.036).* Any person who has received from the authors, or his legal successors, a license to use a computer program, may reproduce a single back-up copy of the original versions of the program.

The copy in question shall be duly identified, and shall mention the name of the licensor who made the copy and the date of copying. The back-up copy may not be used for a purpose other than that of replacing the original copy of the licensed computer program where the original is lost or is of no further use.

**10.** Any person may publish, for didactic or scientific purposes, comments, criticisms or notes referring to intellectual works, including up to 1,000 words for literary or scientific works, or eight bars in musical works and, in all cases, only the parts of the text essential for this purpose. This provision shall cover educational and teaching works, collections, anthologies and other similar works.

Where inclusions from works by other people are the main part of the new work, the courts may fix, on an equitable basis and in summary judgment, the proportional amount to which holders of the rights of the works included are entitled.

**11.** Where the parts or volumes of a single work have been published separately in different years, the periods established by this Law shall start for each volume or each part from the year of publication onwards. As regards works published partially or periodically in

installments or as serials, the periods established in this Law shall start from the date of the last installment of the work.

**12.** Intellectual property shall be governed by the provisions of common law, subject to the conditions and limitations established in this Law.

### **Foreign Works**

**13.** Apart from Article 57, all the provisions of this Law shall apply equally to scientific, artistic and literary works, published in foreign countries, irrespective of the nationality of their authors, provided that they belong to nations which recognize intellectual property law.

**14.** In order to receive the protection provided by Argentine law, the author of a foreign work simply needs to provide proof that the formalities established for its protection by the laws of the country in which publication has taken place have been respected, excluding the provisions of Article 23 relating to translation contracts.

**15.** The protection which Argentine law grants to foreign authors shall not extend for a period greater than that recognized by the laws of the country where the work is alleged to have been published. If such laws grant greater protection, the terms of this Law shall prevail.

### **Collaboration**

**16.** Unless specially agreed, the collaborators of a work shall enjoy equal rights; the anonymous collaborators of a collective compilation shall not retain the right of ownership over their assigned contribution and shall be legally represented by the publisher.

**17.** Collaboration shall not be considered to be the simple plurality of authors but only in the case where ownership cannot be divided without changing the nature of a work. In musical compositions with words, the music and lyrics shall be regarded as two distinct works.

**18.** The author of a libretto or any composition set to music shall be the exclusive owner with the right to sell or print his literary work separately from the music, authorizing or prohibiting the public performance of his libretto, and the composer may do so equally with his musical work, independently of the author of the libretto.

**19.** In cases where two or more authors have collaborated in a dramatic or lyrical work, authorization granted by one of the authors shall be sufficient for public performance purposes, without prejudice to the personal actions to which this may give rise.

**20.** Unless specially agreed, the collaborators of a cinematographic work shall have equal rights, and shall be considered to be the author of the plot and the producer of the film.

In the case of a musical cinematographic work, in which a composer has collaborated, the composer shall have the same rights as the author of the plot and the producer of the film.

**21.** Unless specially agreed, the producer of the cinematographic film shall be authorized to show it, even without the consent of the author of the plot or the composer, without prejudice to the rights resulting from the collaboration.

The author of the plot shall have the exclusive right to publish it separately and to produce from it a literary or artistic work of another type. The composer shall have the exclusive right to publish and perform the music separately.

**22.** The producer of a cinematographic film, when showing the film in public, shall mention his own name, that of the author of the action or plot or of the authors of the original works from which the plot of the cinematographic work has been taken, that of the composer, the artistic director or adapter, and that of the main performers.

**23.** The holder of a right of translation shall have right of ownership over the translation, subject to the conditions agreed with the author, provided that the translation contracts are entered in the National Intellectual Property Register, within one year of the publication of the translated work.

The failure to register the translation contract shall lead to the suspension of the right of the author or his legal successors until such time as the work is registered, and such rights shall be recovered by the actual act of registration, for the period and subject to the conditions appropriate, without prejudice to the validity of the translations completed, during the time in which the contract was not entered in the register.

**24.** The translator of a work which does not lie in the public domain shall have the right of ownership over his version only and may not oppose others retranslating the work.

**25.** Any person adapting, transferring, modifying or parodying a work with the author's authorization shall have the right of joint authorship over this adaptation, transfer, modification or parody, unless otherwise agreed.

**26.** Any person adapting, transferring, modifying or parodying a work which does not lie in the public domain shall be the exclusive owner of his adaptation, transfer, modification or parody, and may not oppose others adapting, transferring, modifying or parodying the same work.

### **Special Provisions**

**27.** Political speeches or literary discourses and, in general, conferences on intellectual subjects, may not be published unless expressly authorized by the author. Parliamentary speeches may not be published for profit-making purposes, without the author's authorization.

Journalistic information shall be excluded.

**28.** Unsigned articles, anonymous collaborations, reports, drawings, recordings or information in general of an original and specific nature, published by a newspaper, magazine or other periodical, which has not been acquired or obtained thereby, or by an information agency on an exclusive basis, shall be considered the property of the newspaper, magazine or other periodical, or of the agency.

News of general interest may be used, transmitted or retransmitted; but where it is published in its original version its source shall be expressed.

**29.** The authors of collaborations signed in newspapers, magazines and other periodicals shall be the owners of their collaboration. If the collaborations have not been signed, their authors shall be entitled to publish them only in collections, unless otherwise agreed with the owner of the newspaper, magazine or periodical.

**30.** (*Transcribed in the new text of Decree-Law 12.063*). The owners of periodicals shall enter them in the National Intellectual Property Register.

The registration of a periodical shall protect the intellectual works published therein and its authors may request from the Registry a certificate providing proof of that fact.

For the purposes of registering a periodical, a copy of the last edition, accompanied by the appropriate form, shall be submitted to the National Intellectual Property Registry.

The registration shall be renewed annually and, in order to be maintained in force, the numbers and dates of the published copies shall be declared on a monthly basis to the Registry on the appropriate forms.

The owners of the periodicals registered shall collect one of the published copies, sealed with the inscription: Copy Law 11.723, and they shall be responsible for the authenticity thereof.

The failure to fulfill this obligation shall, without prejudice to the responsibilities that may result for third parties, be subject to a fine of up to 5,000 pesos in national currency (m\$5,000), to be applied by the Director of the National Intellectual Property Registry. The amount of the fine may be appealed to the Ministry of Education and Justice.

The Registry may, at any time, request the submission of copies of this collection and inspect the publishing house in order to verify that the obligation laid down in the previous paragraph is being fulfilled.

If a publication ceases to appear on a permanent basis, this fact shall be communicated to the Registry and the sealed collection shall be returned to the National Library, within six months of the expiry date of the latest registration.

The failure to fulfill the latter obligation shall be subject to a fine of 5,000 pesos in national currency (m\$5,000).

**31.** The photographic portrait of a person may not be commercialized without the express consent of the person portrayed and, where that person is deceased, of his spouse and sons or direct descendants thereof or, failing that, the father or mother. In the absence of the spouse, sons, father or mother, or the direct descendants of the sons, publication shall be free.

The person who has given his consent may withdraw it but must provide compensation for any damages caused.

Publication of a portrait shall be free where it is for scientific and general cultural purposes, or relates to facts or events of public interest or which have been developed in public.

**32.** The right to publish letters shall belong to the author. Following the author's death the consent of the persons mentioned in the preceding article is necessary, in the order indicated therein.

**33.** Where the consent of more than one person is required for the publication of a photographic portrait or of letters, and there is disagreement between those persons, the matter shall be settled by the judicial authority.

**34.** (*According to Law No. 24.249*). For photographic works, the duration of the right of ownership shall be 20 years from the date of first publication.

Without prejudice to the conditions and protection of the original works reproduced or adapted for films, the duration of the right of ownership for cinematographic works shall be 50 years from the date of first publication. The date and place of publication, and the name or mark of the author or publisher, shall be inscribed on the photographic work or film, while the reproduction of a photographic or cinematographic work may not be subject to the criminal action established in this Law.

**35.** The consent referred to in Article 31 for the publication of a portrait shall not be necessary, once 20 years after the death of the person portrayed have elapsed.

For the publication of a letter, consent shall not be necessary once 20 years have elapsed after the death of the author of the letter. This is also the case where the letter is the subject of protection as a work, under the terms of this Law.

**36.** *(Article according to Law No. 17.753; final paragraph added by Law No. 20.098).* The authors of literary, dramatic, dramatico-musical and musical works shall enjoy the exclusive right to authorize:

- (a) the recital and public performance of their works;
- (b) the public broadcasting by any means of the recital and performance of their works.

However, the performance and recital of literary or artistic works already published, in public acts organized by educational institutions, or linked with the fulfillment of their educational purposes, study plans and programs, shall be lawful and shall be exempt from the payment of copyrights and performers' rights, provided that the event in question is not broadcast outside the place where it occurs and the performers gather and perform free of charge.

The performance of pieces of music in concerts, auditions and public performances by orchestras, bands, ensembles, choirs and other musical organizations belonging to national State institutions, as well as those from the provinces or municipalities, shall also be exempt from the payment of copyright to which the previous paragraph refers, provided that public attendance at such gatherings is free.

### **Publishing**

**37.** A publishing contract shall exist where the holder of the right of ownership over an intellectual work is obliged to transfer the work to a publisher, and the publisher is obliged to reproduce, disseminate and sell the work.

This contract shall apply, irrespective of the form or system of reproduction or publication.

**38.** The holder shall retain his intellectual property right, except where that right is renounced by the publishing contract.

He may translate, transform and consolidate his work, and defend it against those defrauding his ownership, including against the publisher himself.

**39.** The publisher shall have the rights linked to printing, dissemination and sale only, without being able to modify the text, and may only make printing corrections if the author refuses or is unable to do so.

**40.** The contract shall note the number of editions and copies of each of the editions, as well as the remuneration of the author or his legal successors; unless proven otherwise, the contract shall always be considered binding. If the above conditions are not noted, the uses and customs of the place of the contract shall be observed.

**41.** In cases where a work perishes in the hands of a publisher before being published, the publisher shall owe the author or his legal successors, as compensation, the royalty or share which would have accrued to them had the work been published. Where a work perishes in the hands of an author or his legal successors, these persons shall be liable for the sum they would have received as a reward and for compensation for the damages caused.

**42.** Where no time period is fixed for the transfer of a work by the author or his legal successors, or for publication of the work by the publisher, the courts shall fix the period on an equitable basis and in summary judgment, subject to provision of appropriate compensation.

**43.** Where a publishing contract has a deadline, upon expiry of the deadline the publisher shall retain unsold copies of the work and the holder may buy them at cost price, with a ten per cent discount. Where the holder does not avail himself of this right, the publisher may continue to sell the copies in question subject to the conditions of the contract terminated.

**44.** A contract shall be terminated, irrespective of the stipulated deadline, where the agreed number of editions has sold out.

### **Performance**

**45.** A performance contract shall exist where the author or his legal successors transfer to a third party or employer, subject to the latter's acceptance, a theatrical work for public performance.

**46.** As regards unpublished works which a third party or employer is to have performed for the first time, the latter must acknowledge receipt of the work to the author or his legal successors, and shall inform them within 30 days of its submission as to whether it is acceptable.

Any work accepted shall be performed within the year corresponding to its submission. If a work is not performed, the author shall be entitled to request as compensation a sum equal to the author's royalty, corresponding to 20 performances of a similar work.

**47.** The acceptance of a work shall not entitle the person accepting it to reproduction or performance of the work by a different company, or in a form other than that stipulated, and any copies others than those essential may not be made, sold or hired out without the author's authorization.

**48.** An employer shall be responsible for the complete or partial destruction of an original work and if, through his negligence, the work is lost, reproduced or performed, without authorization of the author or his legal successors, shall provide compensation for the damage caused.

**49.** The author of an unpublished work accepted by a third party may not, insofar as the third party does not have the work performed, have it performed by another person, unless otherwise agreed.

**50.** For the purposes of this law, public performance shall include radiotelephone broadcasting, cinematographic exhibition, television or any other mechanical reproduction procedure for any literary or artistic work.

### **Sale**

**51.** An author or his legal successors may transfer or assign completely or partially his work, and such a transfer shall be valid only during the period established by the law and shall grant the person acquiring the work the right to generate economic benefit without being able to modify the title, form and content of the work.

**52.** Although an author may transfer ownership of his work, he shall retain the right to request that the text and title of the work remain the same, together with any reference to his name or pseudonym as the author, in printed matter, copies or reproductions.

**53.** The transfer or assignment of a literary, scientific or musical work, be it total or partial, shall be entered in the National Intellectual Property Register, without which requirement it shall not be valid.

**54.** The transfer or assignment of a pictorial, sculptural or photographic work, or of one involving similar arts, shall, unless otherwise agreed, not make implicit the right of reproduction which shall remain the sole preserve of the author or his legal successors.

**55.** The transfer of plans, sketches and similar works shall not entitle the person acquiring them to perform the prospective work, and that person may not transfer, reproduce or make use of his acquisition for the purposes of other works.

These rights shall be the sole preserve of the author, unless otherwise agreed.

**55bis.** (*Added by Law No. 25.036*). The use of intellectual property in computer programs shall include, *inter alia*, license contracts for the use or reproduction of such programs.

### **Performers**

**56.** The performer of a literary or musical work shall be entitled to request remuneration for his performance, broadcast or retransmitted by radiotelephone, television, or recorded or printed on record, film, tape, wire or any other substance or body suitable for sound or visual reproduction. Where an agreement is not reached, the amount of the remuneration shall be established in summary judgment by the competent judicial authority.

The performer of a literary or musical work shall be entitled to oppose the disclosure of his performance, where a reproduction of the performance is made such that it may cause serious and unjust harm to his artistic interests.

Where the performance has been made by a choir or an orchestra, this right of opposition shall fall to the director of the choir or orchestra.

Without prejudice to the ownership right belonging to the author, a work performed in a theater or public hall may be broadcast or retransmitted by radiotelephone or television, only with the consent of the event organizer.

### **Registration of Works**

**57.** The publisher of the works included in Article 1 shall deposit, with the National Intellectual Property Registry, three complete copies of any published work, within three months of the work appearing. In the case of a luxury edition or one which does not exceed 100 copies, it shall be sufficient to deposit a single copy.

The same deadline and conditions shall prevail for works printed abroad, but which are published in Argentina, and the deadline shall begin from the first day on which such works are placed on sale on the territory of Argentina.

For paintings, architectural works, sculptures and so on, a sketch or photograph of the original shall be deposited with additional information allowing such works to be identified.

In the case of cinematographic films, a summary of the plot, dialogs, photographs and scenarios of their principal scenes shall be deposited.



(57 “*in fine:*” incorporated by Law No. 25.036). For computer programs, the materials and documents determined by regulation shall be deposited.

**58.** Any person submitting a work for registration in the form of the relevant copies shall provide a temporary receipt containing the information, date and circumstances used to identify the work, registration of which shall be noted.

**59.** (*Transcribed in the new text of Decree-Law No. 12.063*). The National Intellectual Property Registry will publish, on a daily basis in the Official Gazette, the names of the works submitted for registration, in addition to the measures which the management considers necessary, with details of the relevant titles, authors, publishers, classes to which they belong and other information identifying them. If opposition has not been raised within one month of publication, the Registry shall register the works and grant the authors, where requested, the permanent ownership title.

**60.** Where a claim is made within the one-month period indicated, an official statement of claim shall be produced, which shall be transferred within five days to the person concerned, and the Director of the National Intellectual Property Registry shall settle the matter within the following ten days.

A resolution may be appealed to the respective ministry within a further ten-day period and the ministerial resolution may not be subject to any appeal, excluding the right of any person who considers himself to have been harmed and who may initiate the corresponding judgment.

**61.** The deposit of any published work shall be compulsory for the publisher. Where a publisher does not deposit his work, he shall be punished with a fine of ten times the commercial value of the copy not deposited.

**62.** The deposit of works, made by a publisher, guarantees completely the rights of the author over his work and those of the publisher over his publication. As regards unpublished works, the author or his legal successors may deposit a copy of the manuscript, with the depositor’s certified signature.

**63.** The failure to register shall lead to the suspension of the right of the author until such time as the work is registered, and such rights shall be recovered by the actual act of registration, for the period and subject to the conditions appropriate, without prejudice to the validity of the reproductions, editions, performances and any other publication made during the period in which the work was not registered.

The registration of a work shall not be permitted without a reference to its “imprint.” This shall refer to the date, place, edition and publisher’s name.

**64.** All the official Government departments and institutions, associations or persons which, for whatever reason, receive subsidies from the National Treasury, shall transfer to the library of the National Congress, without prejudice to the provisions of Article 57, the corresponding copy of the publications they issue, in the form and within the periods stated in the article in question. Government departments shall be authorized to reject any fraudulent work submitted for sale.

### **National Intellectual Property Registry**

**65.** The Registry shall keep the necessary books so that any registered work has a corresponding page containing a description of the work, its title, author’s name, date of submission and other circumstances referring thereto, for example contracts relating to the work and court decisions taken thereon.

**66.** The register shall include any publishing, translation, purchase-sale, transfer, participation, and any other contract linked to intellectual property law, provided that the works referred to have been published and that this does not contravene the provisions of this Law.

**67.** For the registration of any work the Registry shall receive the duties or tariffs to be set by the Executive Authority, insofar as such duties or tariffs are not established in the respective law.

**68.** The Registry shall be managed by a lawyer who shall satisfy the requirements of Article 70 of the law concerning organization of the courts, and subject to the supervision of the Ministry of Justice and Public Education.

### **Promotion of the Arts and Literature**

*Articles 69 and 70 (Repealed by Article 26 of Decree-Law No. 1.224 of February 3, 1958).*

*Said Decree-Law No. 1.224/58 establishes the “National Arts Foundation” and Chapter II-Capital and Earnings, Article 6 establishes how arts promotion funds should be made up, in addition to the national Government contribution.*

*Among other contributions, said funds include:*

*“(f) the takings received in accordance with Law No. 11.723.”*

### **Penalties**

**71.** Any person who, by whatever means and in whatever form defrauds the intellectual property rights recognized by this Law shall be punished with the penalty established by Article 172 of the Penal Code.

**72.** Without prejudice to the general provision of the previous article, special cases of defrauding shall be considered and shall be subject to the penalty established by the previous article, in addition to the confiscation of the unlawful edition:

*(a)* any person publishing, selling or reproducing by any means or instrument an unpublished or published work without authorization from its author or his legal successors;

*(b)* any person falsifying intellectual works, to be understood as the publication of an already published work, falsely showing the name of the publisher authorized for this purpose;

*(c)* any person publishing, selling or reproducing a work, suppressing or changing the name of the author, the title of the work or fraudulently altering the text thereof;

*(d)* any person publishing or reproducing a larger number of copies than duly authorized.

**72bis.** *(Added by Law No. 23.741).* The following shall be punished by means of a prison sentence of one month to six years' duration:

*(a)* any person who, for profit making purposes, reproduces a phonogram, without written authorization from its producer or the producer's licensee;

*(b)* any person who, for the same purpose, facilitates unlawful reproduction through the hiring of phonograms or other material carriers;

(c) any person reproducing unauthorized copies, on the orders of third parties for a price;

(d) any person storing or displaying unlawful copies and who cannot provide proof of their origin through the invoice linking him in commercial terms to a lawful producer;

(e) any person importing unlawful copies with a view to their public distribution.

An injured party may request, in a commercial or criminal court, the confiscation of the copies of phonograms reproduced unlawfully and of the reproduction materials.

The Judge may order this measure *ex officio* and may also request sufficient security from the applicant, where he considers that the applicant lacks the necessary capital resources. Where the precautionary measure has been requested by an authors' or producers' society, the representative nature of which has been legally recognized, security shall not be required.

Where no action, denunciation or case has been raised within 15 days of the confiscation taking place, the measure may remain without effect at the request of the holder of the confiscated copies, without prejudice to the responsibility borne by the applicant. At the request of the injured party, the Judge may order the seizure of the copies containing the unlawful work, as well as the reproduction materials. The unlawful copies shall be destroyed and the reproduction equipment auctioned. In order to prove that he will not use the reproduction equipment for unlawful purposes, the purchaser shall provide proof of his status of phonographic producer or producer's licensee. The proceeds from the auction shall be devoted to the "arts promotion fund" of the National Copyright Foundation, referred to in Article 6 of Decree-Law No. 1.224/58.

**73.** (*Amounts according to Law No. 24.286*). The following shall be punished with a prison sentence of one month to one year's duration, or with a fine of m\$1,000 to 30,000, intended for the promotion fund set up by this Law:

(a) any person performing or having publicly performed theatrical or literary works, without authorization from their authors or legal successors;

(b) any person performing or having publicly performed musical works, without authorization from their authors or legal successors.

**74.** (*Amounts according to Law No. 24.286*). Any person unduly claiming the status of author, legal successor or the performance of any rights holder, and suspending a lawful public performance, shall be punished with a prison sentence of one month to one year's duration, or a fine of m\$1,000 to 30,000, intended for the promotion fund set up by this Law.

**74bis.** (*Incorporated by Law No. 21.338 and repealed by Law No. 23.077*).

**75.** In the application of the penalties established by this Law, action shall be taken *ex officio*, by denunciation or as a case.

**76.** The procedure and the court shall be those established by the respective Code of Criminal Procedure, in force in the place where the offense is committed.

**77.** Both civil and criminal trials shall be independent and the final decisions taken shall not affect each other. Parties may use in defense of their rights only the instrumental evidence from another ruling, confessions and expert reports, including a jury ruling, but never the sentences of respective judges.

**78.** The National Culture Commission represented by its Chairperson may combine any action taken with that of injured parties in order to collect the fines established in its favor and undertake the actions corresponding to the duties and functions assigned to it by this Law.

## Preventive Measures

**79.** Subject to security provided by the interested parties, judges may order for preventive purposes the suspension of a theatrical, cinematographic, philharmonic or other similar performance; and the seizure of the denounced works and of the proceedings collected for all the above types of performance, and any measure used to provide effective protection for the rights covered by this Law.

No formal procedure shall be ordered to clarify the rights of an author or his legal successors. In the case of a challenge, the rights shall be subject to the means of proof established by the laws in force.

## Civil Procedure

**80.** In any ruling based on this Law, be it by application of its provisions or as a consequence of the contracts and legal acts relating to intellectual property, the procedure determined in the following articles shall prevail.

**81.** The procedure and terms will, apart from the preventive measures, be that established for the delaying exceptions in the respective civil and commercial codes of procedure, with the following modifications:

(a) evidence shall always be provided at the request of the parties or *ex officio*, and the relevant period may be extended to 30 days, if the judge considers it appropriate, in line with this resolution;

(b) during the presentation of evidence and at the request of the interested parties a public hearing may be ordered in the courtroom where the parties, legal representatives and experts shall give details of their allegations or opinions.

Where one day is insufficient for such a hearing, the hearing may continue for a longer period;

(c) subject to the conditions of the previous paragraph and where the importance of the subject and technical nature of the issues require, a jury of appropriate specialists shall be appointed and, for scientific matters shall be led by the Dean of the Faculty of Exact Sciences or his designated representative, subject to his responsibility in replacing him; for literary matters, the Dean of the Faculty of Philosophy and Literature; for artistic matters, the Director of the National Museum of Fine Arts, and for musicals, the Director of the National Conservatory of Music.

The jury shall be supplemented by two persons appointed *ex officio*.

The jury shall gather and deliberate as a last resort in the hearing established according to the previous paragraph. If such a hearing has not been convened, the jury shall conduct its business in a special public hearing of the type established in the same paragraph.

Its decision shall be restricted to declaring whether an infringement of intellectual property has occurred, be it legal or convention-related.

This resolution shall be valid as the reports of the experts appointed by opposing parties, where those reports are issued by joint agreement.

**82.** The office of juror shall not be subject to any charge and the procedural provisions referring to witnesses shall apply thereto.

## Denunciations to the National Intellectual Property Registry

**83.** Once the deadlines contained in Article 5 have expired, a denunciation may be made to the National Intellectual Property Registry of the mutilation of a literary, scientific or artistic work, additions, transpositions, the inaccuracy of a translation, conceptual errors and deficiencies in the knowledge of the original language or version. Such denunciations may be made by any resident of Argentina or be made *ex officio*, and for the cognizance of denunciations, the Directorate of the National Registry shall establish a jury which shall comprise:

(a) for literary works, the Dean of the Faculty of Philosophy and Literature; two representatives of the trade union writers' society, designated thereby, and the persons nominated by the denouncing party and the publisher or translator, one for each;

(b) for scientific works, the Dean of the Faculty of Sciences in accordance with his specialism, two representatives of the scientific society of the respective specialism, designated thereby, and the persons nominated by the denouncing party and the publisher or translator, one for each party.

In both cases where an objection has been raised to a translation the respective jury shall also comprise two national public translators, one appointed by each party and the other designated by jury majority;

(c) for artistic works, the Director of the National Museum of Fine Arts, two appropriate persons appointed by the Directorate of the National Intellectual Property Registry, and the persons nominated by the denouncing party and the denounced party, one for each;

(d) for musical works, the Director of the National Conservatory of Music; two representatives of the union society of musical composers, popular or chamber music as the case may be, and the persons designated by the denouncing and the denounced party, one for each.

Where the parties do not designate their representatives within the deadline fixed for them by the Registry Directorate, the Directorate shall designate such representatives.

The jury shall take a decision by declaring whether the denounced failing exists and, if so, may order the work to be corrected, and its display or the circulation of uncorrected editions which will not be used prevented. Persons infringing this prohibition shall pay a fine of 100 to 1,000 pesos, to be fixed by the jury and which will be paid in the form established by the respective civil and commercial codes of procedure for the enforcement of sentences. The amount of the fines shall be paid into the promotion fund set up by this Law. The Registry Directorate shall have power of attorney to enforce the fines.

## Transitional Provisions

**84.** (*Replaced by Law No. 24.870*). Works which are in the public domain shall, before the periods of protection provided for this Law have expired, be returned automatically to the private domain, without prejudice to the rights which would have been acquired by third parties over the reproductions of those works made during the period in which the works were in the public domain.

**85.** The works which, on the date of enactment of this Law, are in the private domain shall continue to be in that domain until the deadline established in Article 5 has expired.

**86.** The National Intellectual Property Registry is hereby established and shall assume responsibility for the current legal deposit office. Until such time as the National Intellectual Property Registry is covered by the General Budget Law, the functions entrusted to it by this Law shall be carried out by the National Library.

**87.** Within 60 days of this Law being approved, the Executive Authority shall bring into force the regulations contained therein.

**88.** Law No. 9.141 and all the provisions opposed to this Law are hereby repealed.

**89.** This Law is hereby passed.

NOTE: The National Intellectual Property Registry, currently known as the National Copyright Directorate, is based at Talcahuano 612, Buenos Aires.