

Translated from Spanish

LAW NO. 11.723 - LEGAL INTELLECTUAL PROPERTY REGIME
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See Legislative Background

The Senate and Chamber of Deputies of the Argentine Nation, jointly in Congress, sanction with the force of law:

Article 1 - For the purposes of this Law, scientific, literary and artistic works shall comprise writings of all types and scope, and include source and object computer programs; compilations of data or 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.

(Article replaced by Article 1 of Law No. 25.036 Official Journal November 11, 1998)

Article 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.

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(Infoleg note: Under Articles 1 and 2 of Decree No. 8.478/1965 Official Journal October 8, 1965, the written authorization of the authors must be displayed at any national or overseas public performance of music.)

Article 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.

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Article 4 - The holders of intellectual property rights shall be:

- (a) the author of the 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;

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- (d) 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. (*Paragraph (d) incorporated by Article 2 of Law No. 25.036 Official Journal November 11, 1998*)

Article 5 – 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 term shall begin from January 1 of the year following the death of the last collaborating party. For posthumous works, the 70-year term 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 in his works shall pass to the State for the whole of the relevant legal term, without prejudice to the rights of third parties.

(Article replaced by Article 1 of Law No. 24.870 Official Journal September 16, 1997)

Article 5bis – Ownership of intellectual performances fixed on phonograms shall fall to the performers for the period of SEVENTY (70) years starting from January 1 of the year following publication. Furthermore, intellectual property in phonograms shall fall to the producers of the phonograms or their legal successors for the period of SEVENTY (70) years starting from January 1 of the year following publication. Phonograms and performances which appear in the public domain prior to the expiry of the periods of protection established under this Law shall automatically return to the private domain for the period which remains, and third parties shall cease any forms of use undertaken during the period when the phonograms and performances were in the public domain.

(Article incorporated by Article 1 of Law No. 26.570 Official Journal December 14, 2009)

Article 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 claimant’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 shall be fixed by arbitration.

Article 7. In addition to those not 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.

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Article 8. 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.

(Article replaced by Article 1 of Decree-Law No. 12.063/1957 Official Journal October 11, 57.)

Article 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.

Any person who has received from the authors, or their legal successors, a license to use a computer program, may reproduce a single backup copy of the original versions of the program. *(Paragraph incorporated by Article 3 of Law No. 25.036 Official Journal November 11, 1998).*

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 backup 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. *(Paragraph incorporated by Article 3 of Law No. 25.036 Official Journal November 11, 1998)*

Article 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 that 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 in the works included are entitled.

Article 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.

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

FOREIGN WORKS

Article 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.

Article 14. In order to receive the protection provided by Argentine law, the author of a foreign work shall simply need 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.

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Article 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

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

Article 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.

Article 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.

Article 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.

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

(Article replaced by Article 1 of Law No. 25.847 Official Journal January 6, 2004)

Article 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.

Article 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.

Article 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

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recovered by the actual act of registration, for the term 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.

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

Article 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.

Article 26. Any person adapting, transferring, modifying or parodying a work which does not lie in the private 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

Article 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.

Article 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 periodicals, which has 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 periodicals, 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.

Article 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.

Article 30. 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.

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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 Argentine pesos, to be applied by the Director of the National Intellectual Property Registry. The amount of the fine may be appealed to the Minister 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 Argentine pesos.

(Article replaced by Article 1 of Decree-Law 12.063/1957 Official Journal October 11, 1957.)

Article 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, didactic and general cultural purposes, or relates to facts or events of public interest or which have been developed in public.

Article 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.

Article 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.

Article 34. For photographic works, the duration of the right of ownership shall be TWENTY (20) years from the date of first publication.

For cinematographic works, the right of ownership shall be FIFTY (50) years from the death of the last of the collaborators listed in Article 20 of this Law.

The date, place of publication, name or mark of the author or publisher shall be inscribed on the photographic or cinematographic work. The failure to satisfy this requirement shall not give rise to the criminal action provided for in this Law in the case of reproduction of said works.

Total or partial assignments of temporal or spatial rights for using cinematographic films may only be binding on third parties from the time of their entry in the National Intellectual Property Register.

(Article replaced by Article 1 of Law No. 25.006 Official Journal August 13, 1998).

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Article 34bis: The provisions of Article 34 shall apply to the cinematographic works which have been incorporated in the public domain, without the period established therein having expired and without prejudice to the lawful use made of copies during the period in which those copies were incorporated in the public domain.

(Article incorporated by Article 2 of Law No. 25.006 Official Journal August 13, 1998.)

Article 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.

Article 36. 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 established under Article 56, 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. *(Paragraph replaced by Article 1 of Law No. 20.098 Official Journal January 23, 1973).*

The reproduction and distribution of scientific or literary works used in special systems for the unsighted or persons with other sensory disabilities shall be exempt from the payment of copyright fees, provided that such reproduction and distribution are handled by authorized bodies. *(Paragraph incorporated by Article 1 of Law No. 26.285 September 13, 2007)*

This exemption shall also cover works that are distributed electronically, encrypted or protected by any other system which prevents them being read by unauthorized persons. The authorized bodies shall allocate and administer the access codes to the protected works. *(Paragraph incorporated by Article 1 of Law No. 26.285 Official Journal September 13, 2007)*

The exemption shall not apply to the reproduction and distribution of works which were originally published in special systems for the visually impaired or persons with

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other sensory disabilities and which are available commercially. (*Paragraph incorporated by Article 1 of Law No. 26.285 Official Journal September 13, 2007*)

For the purposes of this Article, it shall be considered that:

- “Sensory disabilities” mean severe visual impairment, amblyopia, dyslexia or any other physical or neurological impairment which affects the reading, handling or understanding of conventionally printed texts;
- “Encrypted” means material ciphered in such a way that it cannot be read by persons who do not have an access code. The use of such protection or a similar system is deemed essential for the purpose of this exemption, given that unprotected dissemination could unreasonably prejudice the legitimate interests of the author or impede the normal exploitation of the works;
- “Authorized body” means a State entity or non-profit association with legal status, whose primary task is to assist the unsighted or persons with other sensory disabilities;
- “Scientific works” mean treaties, texts, popular science books, articles from specialized journals, and any material relating to the various branches of science or technology;
- “Literary works” mean poetry, short stories, novels, philosophy, history, essays, encyclopaedias, dictionaries, texts and all other writings in which form and content combine to express knowledge and ideas of universal or national interest;
- “Unauthorized persons” mean people who are not unsighted or do not have other sensory disabilities;
- “Special systems” mean Braille, digital texts and audio recordings, provided that these are solely intended for the persons referred to in the previous paragraph;
- “Physical medium” means any tangible element that stores voices using a tape or digital recording, or digital texts, for example, cassettes, CDs, DVDs or USB memory sticks.

(Paragraph incorporated by Article 1 of Law No. 26.285 Official Journal September 13, 2007)

The following information must be recorded for works which are reproduced and distributed using special systems: the details of the authorized body, the date of original publication and the name of the individual or legal entity holding the copyright. Likewise, there must be a warning that those making unauthorized use of these reproductions are liable to imprisonment, in accordance with Article 172 of the

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Criminal Code. (*Paragraph incorporated by Article 1 of Law No. 26.285 Official Journal September 13, 2007*)

(*Article replaced by Article 1 of Law No. 17.753 Official Journal June 3, 1968*)

(**Infoleg note:** *Article 1, last paragraph of Law No. 20.115 Official Journal January 31, 1973 establishes that the General Society of Authors of Argentina (ARGENTORES) shall be in charge of the authorizations determined in the present Article, except in cases of express prohibition of use by the author, and the protection and defense of the moral rights of the authors of said works.*)

(**Infoleg note:** *Under Articles 1 and 2 of Decree No. 8.478/1965, Official Journal October 8, 1965, the written authorization of the authors must be displayed at public performances of national or foreign music.*)

PUBLISHING

Article 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.

Article 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.

Article 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.

Article 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.

Article 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.

Article 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.

Article 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.

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

PERFORMANCE

Article 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.

Article 46. As regards unpublished works which a third party or employer is to have performed for the first time, the third party or employer shall acknowledge receipt of the work to the author or his legal successors, and shall inform them within THIRTY (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 TWENTY (20) performances of a similar work.

Article 47. The acceptance of a work shall not entitle the person accepting it to reproduction or performance of the work by a different firm, 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.

Article 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.

Article 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.

Article 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

Article 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 term 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.

Article 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.

Article 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.

Article 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.

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Article 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.

Article 55bis. The use of intellectual property in computer programs shall include, inter alia, license contracts for the use or reproduction of such programs.

(Article incorporated by Article 4 of Law No. 25.036 Official Journal November 11, 1998).

PERFORMERS

Article 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

Article 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 main scenes shall be deposited. For computer programs, the materials and documents determined by regulation shall be deposited. *(Final part incorporated by Article 5 of Law No. 25.036 Official Journal November 11, 1998).*

Article 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.

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Article 59. The National Intellectual Property Registry shall publish, on a daily basis in the Official Journal, 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.

(Article replaced by Article 1 of Decree-Law 12.063/57 Official Journal October 11, 1957)

Article 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 (10) 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.

Article 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.

Article 62. The deposit of works, made by a publisher, shall guarantee completely the rights of the author in his work and those of the publisher in 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.

Article 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 term 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.

Article 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

Article 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.

Article 66. The Registry 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.

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Article 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.

Article 68. The Registry shall be managed by a lawyer who shall satisfy the requirements of Article 70 of the Law on Organization of the Courts, and subject to the supervision of the Ministry of Justice and Public Education.

PROMOTION OF THE ARTS AND LITERATURE

Article 69. *(Article repealed by Article 26 of Decree-Law No. 1.224/1958 Official Journal, February 14, 1958).*

Article 70. *(Article repealed by Article 26 of Decree-Law No. 1.224/1958 Official Journal, February 14, 1958).*

PENALTIES

Article 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.

Article 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.

Article 72bis. 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.

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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.

(Article incorporated by Article 2 of Law No. 23.741 Official Journal October 25, 1989).

Article 73. The following shall be punished with a prison sentence of one month to one year's duration, or with a fine of ONE THOUSAND (1,000) to THIRTY THOUSAND (30,000) Argentine pesos 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.

(Amounts set by Article 1, paragraph 12, of Law No. 24.286 Official Journal December 29, 1993).

Article 74. 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 ONE THOUSAND (1,000) to THIRTY THOUSAND (30,000) Argentine pesos, intended for the promotion fund set up by this Law.

(Amounts set by Article 1, paragraph 12, of Law No. 24.286 Official Journal December 29, 1993)

Article 74bis. *(Article repealed by Article 1 of Law No. 23.077 Official Journal August 27, 1984 which repeals Law No. 21.338).*

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

Article 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.

Article 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

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from another ruling, confessions and expert reports, including a jury ruling, but never the sentences of respective judges.

Article 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

Article 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.

(Infoleg note: Under Articles 1 and 2 of Decree No. 8.478/1965 Official Journal October 8, 1965, the written authorization of the authors must be displayed at any public performance of national or foreign music)

CIVIL PROCEDURE

Article 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.

Article 81. The procedure and terms shall, 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 THIRTY (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 it, 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 musical matters, the Director of the National Conservatory of Music.

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

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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.

Article 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

Article 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 writers' guild, appointed 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, appointed 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 musical composers' guild, 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 Argentine pesos, to be set 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.

Translated from Spanish

TRANSITIONAL PROVISIONS

Article 84. Works which appear in the public domain prior to the expiry of the terms of protection provided for by this Law, shall return automatically to the private domain, without prejudice to the rights which would have been acquired by third parties in the reproductions of those works made during the period in which those same works were in the public domain.

(Article replaced by Article 1 of Law No. 24.870 Official Journal September 16, 1997).

(Infoleg note: Article 2 of Law No. 24.249 Official Journal November 17, 1993 establishes that the provisions of Article 84 shall be applied to those cinematographic works considered to be in the public domain for which FIFTY (50) years have not expired since they were first published.)

Article 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.

Article 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.

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

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

Article 89. For communication to the Executive Authority.

Done in the Chamber of Sessions of the Argentine Congress, Buenos Aires, September 26, 1933

R. PATRON COSTA
Gustavo Figueroa
Secretary of the Senate

JUAN F. CAFFERATA
D. Zambrono
Secretary of the Chamber of Deputies

Legislative Background

- Article 1 expression “phonographic disks” replaced by “phonograms”, by Article 1 of Law 23.741 Official Journal October 25, 1989;
- Article 5 replaced by Article 1 Decree-Law 12.063/57 Official Journal October 11, 1957;
- Article 34 replaced by Article 1 of Law No. 24.249 Official Journal November 17, 1993;
- Article 36, final paragraph incorporated by Article 1 of Law No. 18.453 Official Journal December 1, 1969;

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- Article 73 the following Laws set amounts: Article 1 of Law No. 23.974 Official Journal September 17, 1991; Article 1, paragraph 18, of Law No. 23.479 Official Journal January 26, 1987; Article 12, paragraph 17, of Law No. 23.077 Official Journal August 27, 1984; Article 14 of Law 22.936 Official Journal October 7, 1983; Law No. 20.509 Official Journal May 28, 1973 recovers previous force; Article 4, paragraph (c), of Law No. 17.567 Official Journal January 12, 1968 in force as of April 1, 1968;
- Article 74 the following Laws set amounts: Article 1 of Law No. 23.974 Official Journal September 17, 1991; Article 1, paragraph 18, of Law No. 23.479 Official Journal January 26, 1987; Article 12, paragraph 17, of Law No. 23.077 Official Journal August 27, 1984; Article 14 of Law 22.936 Official Journal October 7, 1983; Article 14 of Law No. 22.461 Official Journal April 30, 1981; Law No. 20.509 Official Journal May 28, 1973 recovers previous force; Article 4, paragraph (c), of Law No. 17.567 Official Journal January 12, 1968 in force as of April 1, 1968;
- Article 74*bis* incorporated by Article 5 of Law No. 17.567 Official Journal January 12, 1968 and replaced by Article 4 of Law No. 21.338 Official Journal July 1, 1976; the following Laws set amounts: Article 14 of Law No. 22.461 Official Journal April 30, 1981; Article 14 of Law 22.936 Official Journal October 7, 1983
- Article 84 replaced by Article 1 of Decree-Law No. 12.063/1957 Official Journal October 11, 1957.