

COPYRIGHT LAW

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WHEREAS Article 8, paragraph 14, of the Constitution of the Republic provides that exclusive ownership of inventions and discoveries and of scientific, artistic and literary productions, for the period of time and in the form established by law, shall be a human right,

WHEREAS copyright is governed by Law No. 32-86 of July 4, 1986, which, when it was enacted, constituted a modern and effective legal instrument for the protection of all works covered by copyright,

WHEREAS by Resolution No. 2-95 of January 20, 1995, the Dominican Republic ratified the Marrakesh Agreement Establishing the World Trade Organization,

WHEREAS the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) forms an integral part of the Marrakesh Agreement,

WHEREAS the institutional and legislative adjustment of the copyright regime in order to bring it into line with the TRIPS Agreement requires a new copyright law and institutions that guarantee respect for the rights of legitimate copyright holders, bearing in mind the greater national interest,

THE FOLLOWING LAW HAS BEEN PASSED:

TITLE I

GENERAL PROVISIONS

Art. 1. – The provisions of the present Law shall be deemed to be of public and social interest. The authors of, and holders of rights in, literary and artistic works and the literary or artistic form of scientific works shall enjoy protection for their works in the manner prescribed by the present Law. The neighboring rights of performers, producers of phonograms and broadcasting organizations shall also be protected.

Art. 2. – Copyright shall include the protection of literary and artistic works and the literary or artistic form of scientific works, including all creations of the mind in the domains indicated, whatever may be the mode or form of their expression, disclosure, reproduction or communication, or their type, merit or purpose, including but not limited to:

- (1) works expressed in writing, in the form of books, magazines, pamphlets or other texts;
- (2) lectures, addresses, sermons and other works of the same nature;

- (3) dramatic or dramatico-musical works and other stage works;
- (4) choreographic works and entertainments in dumb show;
- (5) musical compositions with or without words;
- (6) audiovisual works, to which are assimilated works expressed by an analogous process, fixed in any type of medium;
- (7) works of drawing, painting, architecture, sculpture, engraving, lithography and other artistic works;
- (8) photographic works, to which are assimilated works expressed by a process analogous to photography;
- (9) works of applied art;
- (10) illustrations, maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or the sciences;
- (11) computer programs, under the same terms as literary works, whether in source or object code, or in any other form of expression, including technical documentation and user manuals;
- (12) databases or compilations of data or other material, in machine-readable or any other form, which by reason of the selection or arrangement of their contents constitute intellectual creations, but not the data or the material themselves and without prejudice to any copyright existing in works that may be the subject of the database or compilation;
- (13) lastly, any literary or artistic production or literary or artistic expression in the scientific domain that can be disclosed, fixed or reproduced by any means or process known or as yet unknown.

Art. 3. – Copyright shall be an inherent right that shall originate with the creation of the work and shall be independent of the ownership of the physical medium in which the work is embodied. The purpose of the formalities provided for in this Law shall be to publicize and provide greater legal security for protected right holders, and lack of compliance therewith shall not prejudice the enjoyment or exercise of rights.

Art. 4. – In the absence of proof to the contrary, the person whose name, pseudonym, initials or any other conventional marks or signs that are well-known equivalents of the name itself appear on a work or on reproductions thereof or are mentioned in the communication or any other form of public dissemination of the work shall be considered the author thereof.

Art. 5. – Only a natural person may be an author. However, the State, public law entities and moral or legal persons may exercise copyright and neighboring rights as successors in title, in accordance with the rules set out in the present Law.

Art. 6. – The following shall be protected as independent works, without prejudice to the copyright in the original works and insofar as they constitute an original creation:

(1) translations, adaptations, arrangements and other original transformations based on a work that is in the private domain, with the express authorization of the holder of the right in the original work;

(2) collections of literary or artistic works, such as encyclopedias and anthologies, and other works of a similar nature, provided that, by reason of the selection or arrangement of the material, they constitute intellectual creations.

Paragraph. – When the works referred to in this Article are published or disclosed, the name or pseudonym of the author or authors and the title of the original works used shall be cited.

Art. 7. – This Law shall protect only the form in which the author's ideas are described, explained, illustrated or incorporated in literary, artistic or scientific works, not ideas, procedures, methods of operation or mathematical methods as such.

Art. 8. – The following shall enjoy protection under the present Law:

(1) works of which the author or at least one of the joint authors is Dominican or resides in the Republic;

(2) works published in the Republic for the first time or published there within 30 days of their first publication;

(3) works of nationals of, or persons resident in, countries that are parties to any of the international treaties to which the Dominican Republic is a party or to which it becomes a party in the future;

(4) works first published, or published within 30 days of their first publication, in any country that is a party to such agreements or treaties;

(5) artistic performances, phonographic productions and broadcasts, under the terms set out in the Title of this Law relating to neighboring rights to copyright.

Paragraph. – Where there is no applicable international agreement, foreign works, artistic performances, phonographic productions and broadcasts shall enjoy the protection established by this Law, provided that, in the relevant country of origin,

effective reciprocity is in place for Dominican authors, artists, producers or broadcasters, as the case may be.

Art. 9. – In the case of works of joint authorship that are divisible, each joint author shall be the holder of the rights in the part of which he is the author, which he may exploit separately, unless agreed otherwise. In the case of works of joint authorship that are indivisible, the rights shall accrue jointly *pro indiviso* to all the joint authors, unless they have agreed otherwise among themselves.

Art. 10. – In the case of an anonymous work or a work published under a pseudonym, the author of which has not been disclosed, the publisher or discloser, as appropriate, shall, without the need for other evidence, be deemed to represent the author until the author reveals his identity and proves his authorship of the work, at which time such representation shall cease. The publisher or discloser shall be entitled to defend and enforce the author's rights, without prejudice to the liability of whosoever acts without authorization or under false pretenses.

Art. 11. – Anyone that translates, adapts, arranges, transposes, modifies, abridges, parodies or in any way extracts the content of a work in the public domain shall hold exclusive rights in his own work but may not object to others translating, adapting, arranging, transposing, modifying or abridging the same work, provided that such works are original works, distinct from his own, in each of which the person that produced the work shall hold the copyright.

Paragraph. – The moral rights of authorship and integrity in the original work shall always be unaffected.

Art. 12. – In the case of works created in the context of an employment relationship, ownership of transferred economic rights shall be governed by the terms agreed between the parties.

Paragraph. – Unless expressly stipulated in the relevant contract, the economic rights in the work shall be presumed to accrue to the authors.

Art. 13. – The economic rights in works created by public employees or officials in the performance of the duties inherent in their position shall be presumed to be assigned to the public organization in question, unless agreed otherwise.

Paragraph I. – In such cases, moral rights shall continue to accrue to the authors, without prejudice to the right of the public institution in question to exercise them on their behalf, for the purpose of defending the creators' authorship and the integrity of the work.

Paragraph II. – The provisions of this Article shall not apply to works created in the course of teaching, lessons or lectures and reports on scientific research sponsored by

public institutions, the rights in which shall accrue to the respective authors, unless stipulated otherwise.

Art. 14. – In the case of commissioned works, ownership of the economic rights shall be governed by the terms agreed between the parties. In any case, the works may be used only by the contracting parties, using the means of dissemination expressly authorized by the author or authors involved.

Art. 15. – In the case of a collective work it shall be presumed, in the absence of proof to the contrary, that the authors have assigned ownership of the economic rights exclusively to the natural or legal person that publishes or discloses it in his own name, who shall also have the authority to defend the moral rights on behalf of the authors.

TITLE II DEFINITIONS

Art. 16. – For the purposes of the present Law:

- (1) "author" means the natural person who makes a creation;
- (2) "domestic environment" means the context of family gatherings held in the dwelling house that serves as the natural family home;
- (3) "performer" means a person who presents, sings, reads, recites or in any way performs a literary or artistic work or an expression of folklore;
- (4) "successor in title" means the natural or legal person to whom or to which are transferred some or all of the rights recognized under the present Law;
- (5) "communication to the public" means the dissemination, by any process known or as yet unknown, of signs, words, sounds or images, in such a way that they may be perceived by one or more persons, regardless of whether the person or persons are able to receive them in the same place and at the same time or in different places and/or at different times;
- (6) "distribution to the public" means the making available to the public of the original or one or more copies of the work in a phonogram or a permanent or temporary image of the work, by sale, rental, lending or in any other way known or as yet unknown;
- (7) "disclosure" means the fact of making the work, performance or production available to the public for the first time, with the consent of the holder of the relevant right, by any means or process known or as yet unknown;
- (8) "publisher" means the natural or legal person contractually responsible for the publication of a work, who or which, pursuant to the agreement signed by the parties, is committed to publishing and disseminating the work at his own expense;

(9) "broadcast" or "transmission" means the sending, direct or indirect, of sounds and/or images over a distance for reception by the public by any wire or wireless means or process;

(10) "fixation" means the embodiment of signs, images and/or sounds in a physical medium that enables them to be read, perceived, reproduced or communicated;

(11) "phonogram" means any fixation carried out for the first time of the sounds of a performance or of other sounds, or of a representation of sounds, other than in the form of a fixation incorporated in a cinematographic or other audiovisual work;

(12) "work" means any original intellectual creation of an artistic, scientific or literary nature that can be disclosed or reproduced in any form known or as yet unknown;

(13) "audiovisual work" means any creation expressed by a series of linked images giving an impression of movement, with or without the incorporation of sound, that is intended essentially to be screened by means of appropriate devices or any other means of projection or communication of images and sounds, regardless of the nature or characteristics of the physical medium in which said work is embodied. Audiovisual works shall include cinematographic works and all works that are expressed by means analogous to cinematography;

(14) "anonymous work" means a work in which the name of the author is not mentioned, in accordance with his wishes;

(15) "collective work" means a work created by two or more authors, on the initiative and under the supervision of a natural or legal person, who or which coordinates, discloses and publishes the work in his name and in which either it is not possible to identify the authors, or their different contributions merge in the whole in such a way that it is impossible to attribute to each of them an undivided right in the whole work once completed;

(16) "derivative work" means a work resulting from the adaptation, translation, arrangement or other transformation of an original work, provided that it constitutes an independent creation;

(17) "work of joint authorship" means a work produced jointly by two or more natural persons;

(18) "individual work" means a work created by a single natural person;

(19) "unpublished work" means a work that has not been made known to the public, with the consent of the author or his successors in title;

(20) "original work" means the work as originally created;

(21) "posthumous work" means a work that was not disclosed during the author's lifetime;

(22) "pseudonymous work" means a work in which the author uses a pseudonym that does not identify him;

(23) "broadcasting organization" means a radio or television station that transmits programs to the public, for which purpose it decides on the programming to be transmitted;

(24) "producer of phonograms" means the natural or legal person that takes the initiative and has responsibility for the first fixation of the sounds of a performance or other sounds, or the representations of sounds;

(25) "computer program" means the expression in words, codes, plans or any other form of a set of instructions which, on being incorporated in an automated reading device, is capable of causing a computer or other type of machine to execute a task or produce a result;

(26) "publication" means the production of copies which are made available to the public with the consent of the holder of the relevant right;

(27) "broadcasting" means communication to the public by means of wireless transmission of sounds and/or images. Broadcasting shall include that effected by satellite from the transmission of the signal until the programming is made available to the public;

(28) "reproduction" means the fixation, by any process, of a work or intellectual production in a physical medium that enables the communication thereof, including the electronic storage thereof, and the making of one or more copies of all or part of a work or phonogram, directly or indirectly, temporarily or permanently, by any means and in any form known or as yet unknown;

(29) "retransmission" means the relaying of a signal or program received from another source, effected by the distribution of signs, sounds or images by wireless means or by wire, cable, optic fiber or other analogous medium;

(30) "satellite" means any device located in outer space capable of receiving and transmitting or retransmitting signals. The concept of satellite shall include both telecommunication satellites and direct broadcasting satellites;

(31) "fair use" means use that does not interfere with the normal exploitation of the work or cause unjustified harm to the legitimate interests of the author or of the holder of the relevant right;

(32) "personal use" means the reproduction or other form of use of the work of another person, in a single copy, exclusively for an individual's own purposes;

(33) "videogram" means any fixation or reproduction of sounds synchronized with images or of images with sounds, using physical media such as video cassettes, video discs or any other physical medium.

TITLE III CONTENT OF THE RIGHT

CHAPTER I MORAL RIGHTS

Art. 17. – In respect of his work, the author shall have a perpetual, inalienable, imprescriptible and unrenounceable right to:

(1) claim authorship of his work at any time, and in particular to require that his name or pseudonym be indicated when any act relating to the use of his right is carried out;

(2) object to any distortion, mutilation or other modification of the work, where such action may be or is prejudicial to his honor or professional reputation, or where the work loses literary, academic or scientific merit. An author so affected may seek compensation for the injury suffered;

(3) keep the work unpublished or anonymous until his death or thereafter, where he so orders by testamentary provision;

(4) withdraw the work from circulation or suspend any form of use, even where it has previously been authorized, compensating for any injury that may be caused to third parties.

Art. 18. – On the death of the author, the exercise of the rights set out in subparagraphs (1) and (2) of the preceding Article shall pass to his spouse and legal heirs. In the absence of legal heirs, the State shall be responsible, through the designated institutions, for guaranteeing the author's moral rights.

CHAPTER II ECONOMIC RIGHTS

Art. 19. – The authors of scientific, literary or artistic works and their successors in title shall have the right to dispose freely of their works, either free of charge or for a consideration, and, in particular, the exclusive right to authorize or prohibit:

(1) the reproduction of the work in any manner or form;

- (2) translation into any language or dialect;
- (3) the modification of their work by means of adaptation or arrangement or in any other way;
- (4) the inclusion of the work in audiovisual productions, phonograms or any other type of production or physical medium;
- (5) the distribution to the public of the original or copies of the work by sale, rental or lending or in any other way;
- (6) the communication of the work to the public by any process or means known or as yet unknown, and in particular:
 - (a) stage presentations, recitals, dissertations and public performances of dramatic, dramatico-musical, literary and musical works by any means or process;
 - (b) the public projection or screening of audiovisual works through any type of medium;
 - (c) the transmission by broadcasting or any other means of wireless distribution of signs, sounds or images, including the sending of signals from a ground station to a broadcasting or telecommunications satellite;
 - (d) transmission by wire, cable, optic fiber or other analogous process, whether free or on subscription;
 - (e) the retransmission, by wire or wireless means, by an organization other than the originating organization, of the work that was the subject of the original transmission;
 - (f) the emission, transmission or broadcasting, in a place accessible to the public and by means of any appropriate apparatus, of a work transmitted by radio or television;
 - (g) the public display of works of art or reproductions thereof;
 - (h) public access to computer databases by means of telecommunication, where they incorporate or constitute protected works;
 - (i) in general, the dissemination of signs, words, sounds or images by any means or process;
- (7) any other form of use of the work, known or as yet unknown, except where expressly provided otherwise by law or in a contract.

Art. 20. – Provided that the law does not provide otherwise, the reproduction, distribution, public communication or other form of use of the work in whole or in part without the consent of the author or, where appropriate, his successors in title or other right holders recognized under the present Law shall be unlawful.

Paragraph. – This provision shall also include the reproduction, distribution, public communication or other use of a work that has been translated, adapted, transformed, arranged or copied by any means or process.

CHAPTER III DURATION OF ECONOMIC RIGHTS

Art. 21. – Copyright shall accrue to the author during his lifetime and to his spouse, heirs and successors in title for 50 years after his death. In the case of duly established joint authorship, the period of 50 years shall commence on the death of the last joint author.

Paragraph. – In the case of non-resident foreign authors, the duration of copyright may not be greater than that recognized under the laws of the country of origin; however, where those laws afford greater protection than that granted by this Law, the provisions of this Law shall apply.

Art. 22. – For works consisting of two or more volumes that are not published together, as for those published in the form of pamphlets or periodical installments, the period of protection shall commence, for each volume, pamphlet or installment, from the respective date of publication of each volume.

Art. 23. – Where the author has no spouse, heirs or successors in title, the work shall pass into the public domain on the death of the author. Where the author's rights have been transferred by *inter vivos* instrument, those rights shall accrue to the acquirers during the author's lifetime and for 50 years after his death, and for heirs, the remainder of the period up to 50 years, without prejudice to any stipulation in that regard by the author of the work and said acquirers.

Art. 24. – Anonymous works shall be protected for a period of 50 years from the first publication thereof or, failing that, from the making thereof. Where the author reveals his identity, protection shall last for his lifetime and for a further 50 years after his death.

Art. 25. – Collective works and computer programs shall be protected for 50 years from publication or, failing that, from the making thereof.

Art. 26. – For photographs, the duration of copyright shall be 50 years from first publication or public display or, failing that, from the making thereof.

Art. 27. – Audiovisual works shall be protected for 70 years from first publication or presentation or, failing that, from the making thereof, without prejudice to the rights in original works incorporated in productions the protection of which is subject to the general periods of protection provided for in this Law.

Art. 28. – The periods established in the present Chapter shall be calculated from January 1 of the year following that of the death of the author or, where appropriate, that of the disclosure, publication or making of the work.

Art. 29. – The protection granted to performers under the present Law shall last for 50 years from January 1 of the year following that of the death of the relevant right holder. However, in the case of orchestras, choirs and other performing ensembles, the term shall be 50 years from January 1 of the year following that in which the performance took place or that in which the fixation, if any, was made.

Paragraph I. – The duration of the rights of phonogram producers shall be 50 years from January 1 of the year following that in which the fixation was made.

Paragraph II. – Broadcasting organizations shall be protected for 50 years from January 1 of the year following that in which a broadcast was made.

TITLE IV LIMITATIONS OF AND EXCEPTIONS TO COPYRIGHT

CHAPTER I GENERAL PROVISIONS

Art. 30. – Limitations of and exceptions to copyright shall be interpreted restrictively and shall not be applied in such a way that they conflict with normal exploitation of the work or unreasonably prejudice the interests of the holder of the relevant right.

Art. 31. - It shall be permissible to quote an author by transcribing the necessary passages, provided that they are not of such length and continuity that they might reasonably be considered a simulated, substantial reproduction of the content of his work that causes injury to the author thereof. Every quotation shall mention the name of the author, the title and other information identifying the work quoted.

Paragraph. - Where the inclusion of the works of others constitutes the main part of the new work, the courts shall, at the request of an interested party, make an equitable assessment, awarding a proportional amount to each of the holders of rights in the included works.

Art. 32. - The following may be reproduced by reprographic means for teaching or for the holding of examinations in educational establishments, to the extent justified by the purpose: articles lawfully published in newspapers or magazines, or brief extracts

from lawfully published works, on condition that such use is carried out in accordance with fair practice, that it does not entail sale or any other transaction for payment and that no profit-making purposes are directly or indirectly pursued thereby.

Art. 33. – Any article, photograph, illustration or commentary relating to current events published by the press or broadcast on radio or television may be reproduced, unless this is expressly prohibited.

Art. 34. - The reproduction, distribution and communication to the public of news of the day and other information relating to facts or events in the news that have been publicly disseminated by the press or by means of broadcasting shall be lawful.

Paragraph. – It shall also be lawful to reproduce and make accessible to the public, in connection with the reporting of current events by means of photography, broadcasting or communication to the public by cable or other analogous means, works seen or heard in the course of such events, to the extent justified by the informatory purpose.

Art. 35. – Speeches delivered or read in deliberative assemblies or legal proceedings or presented to other public authorities, or any lecture, speech, sermon or other similar document delivered in public may be published in the periodical press or by means of broadcasting as current news, without the need for any authorization, provided that they are works in which the rights have not been previously and expressly reserved. It is hereby expressly established that works of this type may not be published in separate collections without the consent of the author.

Art. 36. - The publication of a portrait shall be free where it relates to scientific, educational or cultural purposes in general or to facts or events of public interest or that have occurred in public.

Art. 37. – It shall be lawful to reproduce once and in a single copy a literary or scientific work for personal use and not for profit-making purposes, without prejudice to the right of the right holder to obtain equitable remuneration for the reprographic reproduction or for the private copying of a sound or audiovisual recording, in the manner established under the Regulations. Computer programs shall be governed by the guidelines expressly established in the special provisions of this Law relating to such works.

Art. 38. – Public libraries may reproduce a copy of protected works deposited in their collections or archives that are out of print on the local and international market, for the exclusive use of their readers and where this is necessary for the conservation thereof or for lending services to other libraries that are also public. Such copies may also be reproduced in a single copy by the library that receives them, where this is necessary for the conservation thereof and for the sole purpose of being used by their readers.

Art. 39. – Works permanently located on public thoroughfares, streets or squares may be reproduced by means of painting, drawing, photography or audiovisual fixations, and such reproductions may be distributed and communicated publicly. With regard to works of architecture, this provision shall apply only to their external aspect.

Art. 40. - Lectures or talks delivered at establishments of higher, secondary or primary education may be freely noted down and collected by the students to whom they are addressed, but the full or partial reproduction, distribution or communication thereof shall be prohibited without the written authorization of the person that delivered them.

Art. 41. – Reproduction of the Political Constitution, duly-updated laws, decrees, ordinances and regulations, agreements and other administrative instruments and judicial decisions shall be permitted in cases where it is not prohibited, with the obligation to indicate the source and to conform to the official version of the text.

Art. 42. – Protected works or fragments thereof may be reproduced to the extent justified by the objective, where this is indispensable for the purposes of judicial or administrative proceedings.

Art. 43. – The author of an architectural design may not prevent the owner from making modifications to it but shall have the right to prohibit his name from being associated with the modified work.

Art. 44. - The following shall be considered the sole exceptions to the right of public communication for the purposes of this Law:

(1) communications that are made for strictly educational purposes, without being reproduced, within the grounds or buildings of educational institutions, provided that no charge whatsoever is made for admission;

(2) communications of works, performances, productions or broadcasts, without reproduction, in commercial establishments, solely for the purpose of demonstrating reception, reproduction or musical performance equipment to customers or for the sale of lawful physical media embodying such works;

(3) communications that are made, without being reproduced, for sightless persons and persons with other physical disabilities, where the performance is not for profit-making purposes; and

(4) private communications that are made, without being reproduced, in the domestic environment and not for profit-making purposes.

CHAPTER II

LICENSES FOR TRANSLATION AND REPRODUCTION OF FOREIGN WORKS

Art. 45. - Through the body designated in the Regulations, the State may grant non-exclusive and non-transferable compulsory licenses for the translation and reproduction of foreign works, for the purposes of and subject to compliance with the requirements for such licenses, in accordance with the international treaties to which the Republic is a party or to which it becomes a party in the future.

Art. 46. - Where the licenses referred to in the preceding Article are granted, the necessary steps shall be taken to ensure that the holder of the right of translation or reproduction, as the case may be, is provided with equitable remuneration adjusted to the level that would normally be paid in the case of freely negotiated licenses and to ensure a correct translation of the work or an accurate reproduction of the edition, as the case may be.

Art. 47. - The provisions of the present Chapter shall enter into force as soon as Regulations for the implementation thereof have been enacted.

CHAPTER III LIMITATION OF COPYRIGHT IN THE PUBLIC INTEREST

Art. 48. – Prior to the expiry of the term of protection of a work, the State may order the use, for reasons of public necessity, of the economic rights in a work that is considered to be of high cultural, scientific or educational value for the country, or of social or public interest, subject to payment of fair compensation to the holder of said rights.

In order to decree such use, the following requirements shall be met:

- (1) the work must already have been published;
- (2) copies of the last edition are out of print;
- (3) at least three years must have elapsed since the work was last published;
- (4) the copyright holder is unlikely to publish a new edition; and
- (5) the cost of copies must be deemed to be unaffordable for most students in the country who are obliged to use the work as a set text.

Paragraph. - The provisions of the present Chapter shall enter into force as soon as Regulations for the implementation thereof have been enacted.

TITLE V SPECIAL PROVISIONS FOR CERTAIN WORKS

CHAPTER I GENERAL PROVISIONS

Art. 49. – Letters and correspondence shall belong to the person to whom they are sent, but not for the purpose of disclosure or publication thereof. This right shall accrue to the author of the correspondence, except where a letter is to serve as evidence in judicial or administrative proceedings and where publication thereof is authorized by the competent official.

Art. 50. – Letters from deceased persons may not be published within 50 years of their death without the express permission of the surviving spouse and children or the children's descendants or, where there are none, the father or mother of the author of the correspondence. In the absence of a spouse, children, father, mother or children's descendants, the letters may be published freely.

Paragraph. – Where the consent of two or more persons is necessary for publication of the letters or correspondence, and there is disagreement between them, a judge shall rule on the matter after hearing all the interested parties.

Art. 51. – Where the title of a work is not generic but individual and characteristic, it may not be used for another similar work without the appropriate permission of the author.

Art. 52. – Any person shall have the right, within the limitations established in the present Law, to prevent a bust or portrait of himself from being exhibited or placed on the market without his express consent or, where he is deceased, the consent of his heirs or successors in title. Any person that has given his consent may withdraw it but shall remain liable for damages.

Art. 53. – Where the consent of two or more persons is necessary in order to place on the market or exhibit the bust or portrait of an individual and there is disagreement between them, a judge shall rule on the matter after hearing all the interested parties.

Art. 54. – The author of a photographic work or a work obtained by any analogous procedure shall enjoy the exclusive economic right conferred on other intellectual works under this Law, provided that the work has characteristics of originality and without prejudice to copyright in the case of photographs of other works of figurative art.

Art. 55. – Where a commission contract refers to the execution of a painting, drawing, engraving, sculpture or other work of figurative art, the person that orders the execution thereof shall have the right to put it on public display, either free of charge or for a consideration.

Art. 56. – The transfer of a negative shall imply the assignment to the acquirer of the right of reproduction in respect of the photograph, unless the parties stipulate otherwise.

Art. 57. - Unless otherwise agreed, authorization for the use of articles in newspapers or other printed mass communication media, granted by an author who is not working for another person, shall confer on the publisher the right to use such articles only once, without prejudice to the other economic rights of the assignor or of the licensor.

Paragraph. - An author employed under contract by a newspaper or mass communication medium may not reserve the right of reproduction, which shall be presumed to have been assigned to the newspaper company, but the author shall retain his rights in respect of the independent publication of his productions in the form of a collection.

CHAPTER II AUDIOVISUAL WORKS

Art. 58. – An audiovisual work shall be protected as an original work, whatever the type of medium in which it is embodied, without prejudice to the rights of authors of works that are adapted or included therein.

Paragraph. – "Audiovisual works" shall include cinematographic works and works obtained by a process analogous to cinematography.

Art. 59. – Unless otherwise agreed, it shall be presumed that the following are joint authors of an audiovisual work:

- (1) the director or producer;
- (2) the authors of the plot, the screenplay and the dialog;
- (3) the author of the music;
- (4) the artist or artists, in the case of an animation.

Art. 60. – Unless otherwise agreed, it shall be presumed that the authors of an audiovisual work have assigned the economic rights in the work exclusively to the producer, which shall imply authorization for the producer to defend the moral rights on behalf of the authors.

Art. 61. – An audiovisual producer shall be the natural or legal person that assumes financial and organizational responsibility for the execution of the work and is contractually responsible for the provision of services by those persons involved in making the work.

Paragraph. - In the absence of proof to the contrary, it shall be presumed that the producer is the natural or legal person that is mentioned as such on the work in the usual way.

Art. 62. – The director or producer of an audiovisual work shall be the holder of the moral rights in the work as a whole, without prejudice to the rights of the other joint authors and the performers involved in it with regard to their respective contributions, and without prejudice to the producer's right of defense.

Art. 63. - A contract for audiovisual fixation shall be deemed to exist where the author or joint authors grant the producer the exclusive right to produce the audiovisual work and to fix, reproduce, distribute and communicate it publicly, himself or through third parties. Such contract shall specify:

- (1) the authorization of the exclusive right;
- (2) the remuneration owed by the producer to the joint authors of the work and to the performers involved in it, and also the time, place and form of payment of said remuneration;
- (3) the period in which the work is to be completed;
- (4) the producer's responsibility to the authors and performers, where the audiovisual work is a joint production.

Art. 64. – Unless otherwise stipulated, each of the joint authors of an audiovisual work may dispose freely of the part that constitutes his personal contribution in order to use it in a different exploitation, unless he thereby prejudices the exploitation of the joint work.

Paragraph. – Where the producer does not complete the audiovisual work by the agreed deadline or does not have it disseminated within three years of the completion thereof, the authors shall have the right to use it freely.

Art. 65. – Where one of the joint authors refuses to continue his contribution to an audiovisual work or is prevented from doing so for reasons of *force majeure*, he may not object to the use of the part corresponding to his contribution that is already in existence for the purpose of completion of the production. However, he shall not lose his status of author or the rights accruing to him in respect of his contribution.

Art. 66. – The producer of an audiovisual work shall have the following exclusive rights:

- (1) the right to fix and reproduce the work for the purpose of distributing or communicating it by any means or process of dissemination and to derive economic benefit therefrom;

(2) the right to distribute copies of the audiovisual work by sale, rental or in any other way, or to make additions or cuts to its format for the purposes of display or transmission;

(3) the right to authorize translations and other audiovisual adaptations or transformations of the work, to exploit them to the extent required in order to derive greater economic benefit from the work, and to prosecute before the competent courts any unauthorized reproduction, distribution or communication of the audiovisual work. Authors shall also have that right and may take action individually or jointly;

(4) the other economic rights recognized under the present Law in respect of all intellectual works.

Art. 67. – Notwithstanding the provisions of the preceding Article, the joint authors and the main performers shall retain the right to a proportional share with the producer in the equitable remuneration collected from private copying of the audiovisual recording, in the manner determined by the Regulations.

Art. 68. – The provisions of this Chapter shall apply to works that incorporate moving images electronically, with or without words or sound.

Art. 69. – Natural or legal persons involved in the distribution by any means of videograms or other media embodying audiovisual works shall obtain the necessary authorization in advance from the holder of the rights in said works or from his representative or licensee for the national territory.

Art. 70. – In accordance with the exclusive right of public communication, it shall be unlawful for television stations, whether free or subscription-based, and for any receiver to communicate by any process or means known or as yet unknown, and in particular by any mode of transmission or retransmission, by wire or wireless means, audiovisual works embodied in videograms or other types of medium, without the express authorization of the producer or his accredited representative.

Art. 71. – In accordance with the exclusive rights of reproduction and distribution, it shall be unlawful for any person, company or association of any kind to carry out the following activities:

(1) distribution by sale, rental or any other means of circulation of audiovisual media reproduced, copied or brought into the country without license or authorization from the producer or his accredited representative;

(2) reproduction of the audiovisual works embodied in media that he is entitled to market;

(3) the carrying out of any other act that is covered by the exclusive economic right, unless expressly authorized by the producer.

Art. 72. – The authorizations referred to in the present Chapter shall be granted by the producer of the audiovisual work concerned or, where appropriate, by his legally established representative in the Dominican Republic, to whom for this purpose the copyright holder or his successors in title shall grant concessions or licenses for the reproduction and/or distribution of the relevant media in the quantity specified in the license, concession or authorization.

CHAPTER III COMPUTER PROGRAMS

Art. 73. – A producer of a computer program shall be the natural or legal person that takes the initiative and has responsibility for making the work. It shall be presumed, in the absence of proof to the contrary, that the producer of the program is the person that is mentioned on it as such in the usual way.

Paragraph. – Unless otherwise stipulated, it shall be presumed that the authors of the program have assigned to the producer the exclusive economic right therein, unlimited and for its entire duration, including the right to make or authorize adaptations or versions of the work.

Art. 74. – The following shall be lawful without the authorization of the producer:

(1) reproduction of a single copy of the program exclusively for backup or security purposes;

(2) storage of the program in the temporary or read-only memory of the equipment, solely for the personal use of the lawful user, under the terms expressly established by the relevant license;

(3) adaptation of the program by the lawful user, provided that it is intended exclusively for his personal use and has not been prohibited by the right holder.

Art. 75. – Licenses for the use of computer programs and databases may consist of printed texts issued by the producer, whether or not they are signed by the parties, that form part of the set of graphic and magnetic media provided to the lawful user and which contain the conditions of use expressly authorized by the right holder.

TITLE VI TRANSFER AND CONTRACTS FOR THE USE OF COPYRIGHT

CHAPTER I GENERAL PROVISIONS

Art. 76. – Copyright may be transferred by succession or may be the subject of a bequest or testamentary provision. Where, in the case of succession of a joint author, his right does not accrue to any person or entity, it shall accrue to the other joint authors. Such accrual shall also occur where a joint author validly waives his economic right.

Art. 77. – The economic aspects of copyright shall also be transferable by *inter vivos* instrument, through an assignment contract.

Paragraph. – The sale of the physical medium in which a work is embodied shall not imply the assignment to the acquirer of any right of exploitation in the work, unless expressly provided and contrary to the law or the contract.

Art. 78. – An author may sell the original copy of his pictorial work, sculpture or figurative art work in general. In such a case it shall be considered, unless otherwise stipulated, that he has not granted the acquirer the right to reproduce it, that right remaining vested in the author or his successors in title.

Paragraph. – In the event of resale of a pictorial work, sculpture or three-dimensional artistic work in general by public auction, at an exhibition or through a professional dealer, the author and, on his death, his heirs or successors in title, shall, for the period of protection of works established in this Law, enjoy the inalienable right to receive from the seller a percentage of the resale price, which shall not, under any circumstances, be less than two per cent (2%) of the resale price. The collection and distribution of this remuneration shall be the responsibility of a collective management society constituted and authorized in accordance with the provisions of this Law.

CHAPTER II GENERAL PROVISIONS REGARDING CONTRACTS

Art. 79. – The author or his successors in title may assign or grant to another person the economic aspects of the right to use the work, through the use of one or all of the forms of exploitation reserved to the author under the present Law.

Paragraph I. – Economic rights may be assigned free of charge or for a consideration, exclusively or non-exclusively. Unless otherwise agreed or expressly provided in the law, assignment shall be presumed to have been made non-exclusively and for a consideration.

Paragraph II. – The author may also substitute assignment with the granting of a simple non-exclusive and non-transferable license for use that does not transfer any ownership to the licensee but authorizes him to use the work under the terms set out in the same license. In addition to their specific provisions, licenses shall be governed, where applicable, by principles relating to the assignment of economic rights.

Paragraph III. – Contracts for assignment of economic rights and for licenses for use shall be concluded in writing, unless the law itself establishes a presumption of assignment of rights in the particular case.

Art. 80. – The different forms of use of the work shall be independent of each other. Authorization by the author of one form of use shall not extend to other forms.

Paragraph. – In any case, the effects of assignment or of the license, as applicable, shall be limited to the rights expressly assigned or licensed, and to the time and territorial area contractually agreed.

Art. 81. – Legal transactions relating to copyright shall always be interpreted restrictively. Recognition of more extensive rights than those expressly granted or licensed by the author under the relevant contract shall not be permitted.

Art. 82. – Anyone that acquires a right of use as an assignee shall be bound to fulfill the obligations assumed by the assignor under his contract with the author. The assignor shall be answerable to the author together with the assignee for the obligations assumed by the assignee under the respective contract, and for compensation for injury that the assignee may cause the author through failure to fulfill any of said contractual obligations.

Art. 83. – The right to use a work acquired pursuant to an assignment contract may be granted to a third party only with the author's consent.

Paragraph. – However, the author's consent shall not be necessary where the transfer takes place as a result of the liquidation or change in ownership of the assignee company.

Art. 84. – The following shall automatically be null and void:

(1) global contracts for future production, unless they relate to one or more specific works, the characteristics of which shall be clearly specified in the contract;

(2) a commitment to stop or restrict future production, even for a limited time.

CHAPTER III PUBLISHING CONTRACTS

Art. 85. – Pursuant to a publishing contract, the holder of copyright in a literary, artistic or scientific work shall be obliged to provide a copy of the work to the publisher, who shall undertake to publish, distribute and promote it at his own expense and risk, under the agreed terms and subject to the provisions of this Law.

Art. 86. – Under any publishing contract, the sum to be received by the author or holder of rights in the work shall be agreed on. Where no sum is stipulated, it shall be

presumed that said author or right holder shall receive ten per cent (10%) calculated on the basis of the public sale price of the copies published in the first edition. Where the publishing contract provides for the right to issue two or more editions, that is, for a specific number of years, it shall be understood that the sum to be paid shall be fifteen per cent (15%) calculated in the same way.

Art. 87. – Without prejudice to the provisions of the preceding Article and such additional provisions as the parties may deem appropriate, the following shall be stipulated in the contract:

- (1) the identification of the author, the publisher and the work;
- (2) whether or not the work is unpublished;
- (3) whether or not the authorization is exclusive;
- (4) the deadline and terms for submission of a copy of the work to the publisher;
- (5) the deadline agreed for putting the first edition on sale;
- (6) the number of copies to be printed in the first edition;
- (7) the maximum number of copies that can be published by the stipulated deadline;
- (8) the way in which the public sale price of each copy shall be determined.

Paragraph. – In the absence of one or more of the above provisions, the additional rules in the following articles shall apply.

Art. 88. – A copy of the work shall be submitted to the publisher by the deadline and in the form agreed. In the absence of a relevant provision, it shall be understood that submission shall take place within 60 days of the date and signature of the contract.

Paragraph I. – In the case of an unpublished work, the copy shall be presented in a medium suitable for fixation or reproduction.

Paragraph II. – In the case of a work that is already published, the copy may be provided in a medium that embodies the duly indicated amendments, additions or deletions.

Art. 89. – Unless expressly stipulated, it shall be understood that the publisher may publish only one edition.

Art. 90. – The edition or editions authorized under the contract shall be commenced and completed during the period stipulated in the contract. Where the

contract is silent in that regard, such edition or editions shall be commenced within two (2) months of submission of the copy, in the case of the first authorized edition, or within two (2) months of the previous edition going out of print, where the contract authorizes more than one edition.

Paragraph I. Each edition shall be completed within the period strictly necessary in order to comply with the terms set out in the contract.

Paragraph II. Where the publisher delays publication of any of the agreed editions without just cause, he shall compensate for the injury caused to the author, who may exercise the right to rescind the contract.

Art. 91. – The publisher may not publish a greater number of copies than that agreed. Where such number has not been specified, it shall be understood that five hundred (500) copies are to be made in a single edition. The publisher may produce an additional quantity no greater than five per cent (5%) of that authorized, solely to cover the risks of damage or loss in the production process. The additional copies that are over and above the stipulated quantity shall be taken into account in the author's remuneration, where this has been agreed in relation to the number of copies sold.

Art. 92. – Where not stipulated, the public sale price shall be determined by the publisher.

Art. 93. – Remuneration from royalties shall be paid on the date and in the manner and place agreed in the contract. Where said remuneration is equivalent to a fixed sum, regardless of the proceeds obtained from the sale of the published copies, and unless otherwise stipulated, it shall be presumed that it is due as soon as the work in question is ready for distribution and sale to the public.

Paragraph I. – Where remuneration has been agreed in proportion to the number of copies sold, it shall be paid in half-yearly settlements, by means of accounts that shall be provided to the author by the publisher, which may be verified by the author in the manner provided for in the present Law.

Paragraph II. – Any agreement to the contrary that increases the half-yearly term shall be void, and failure to pay the sum due shall entitle the author to rescind the contract, without prejudice to the acknowledgment of any injury that may have been caused to him.

Art. 94. – Where the term of the contract expires before the published copies have been sold, the author or his successors in title shall be entitled to buy the unsold copies at the price set for the sale thereof to the public, with a discount of forty per cent (40%).

Paragraph. – This right may be exercised within sixty (60) days of the date of expiry of the contract. Where it is not exercised, the publisher may continue to sell the

remaining copies under the terms of the contract, which shall remain in force until they are out of print.

Art. 95. – Whatever the period agreed, where the copies authorized by the author have been sold prior to the expiry of the contract, it shall be understood that the term of the contract has expired.

Art. 96. – The author shall be entitled to make such corrections, additions or improvements as he sees fit before the edition of the work goes into production. The publisher may not make a new edition authorized under the contract without giving the author appropriate notice, so that the author has the opportunity to make such alterations, additions or corrections as he sees fit. Where such corrections, additions or improvements are made when the work has already been proofread, the author shall reimburse the publisher for the resulting cost. This rule shall also apply where the alterations, corrections or additions are of a large scale and make the publication process more costly, except in the case of works that are updated by means of periodical dispatches.

Art. 97. – Where the author has previously concluded a publishing contract for the same work, or where the work has been published with his authorization or knowledge, he shall make this circumstance known to the publisher prior to the conclusion of the new contract. The concealment of such facts shall give rise to the payment of damages for any injury or harm that may be caused to the publisher.

Art. 98. – The publisher may not amend the content of the work by making any cuts, additions or amendments without the express consent of the author.

Paragraph. – Unless otherwise stipulated, in the case of works that by their nature must be updated, a new version shall be produced by the author; however, if he cannot or does not wish to do so, the publisher may hire an appropriate person to produce such new version, indicating this in the relevant edition and highlighting by means of a different font or font size those parts that have been added or amended, without prejudice to the remuneration agreed for the author.

Art. 99. - Non-fulfillment by the author of his obligations with respect to the date and form of submission of the medium embodying the work shall confer on the publisher the option to rescind the contract or to return to the author the copy that he has received so that the presentation thereof may be adjusted to the agreed terms. Where a new copy is submitted, the publisher's deadline or deadlines for commencing and completing the edition shall be extended by the amount of time by which the author is late in submitting the duly corrected copy.

Art. 100. – Where the medium in which the work is embodied is lost after being submitted to the publisher through his fault, he shall be obliged to pay the contractually agreed sums. Where the right holder or author has a copy of the lost medium, he shall make it available to the publisher.

Art. 101. – Where the copies of the work that have been produced disappear or are completely or partly destroyed while in the publisher's possession, the author shall be entitled to the sum negotiated, if it was agreed without regard for the number of copies sold.

Paragraph. – If the remuneration has been agreed in proportion to the number of copies sold, the author shall be entitled to receive it, where the loss or destruction of some or all of the copies of the work produced is attributable to the publisher.

Art. 102. – The author or right holder or his heirs or licensees may check the true number of editions and published copies, sales, subscriptions, complimentary copies and, in general, the income generated, by monitoring the print run or production in the publisher's or printer's works and by inspecting the publisher's warehouses; they may carry out such checks themselves or through a person whom they have authorized in writing.

Art. 103. – In addition to the obligations already set out in this Law, the publisher shall have the following obligations:

(1) to give the edition of the work wide publicity in the manner most appropriate for rapid dissemination;

(2) to provide the author, free of charge without affecting his remuneration, with a minimum of one per cent (1%) of the published copies of each edition or reprint, up to a maximum limit of 50 copies of each edition/reprint. Copies received by the author in accordance with this rule shall not be for sale and shall not be considered copies sold for the purposes of payment of the relevant remuneration;

(3) to provide the author with accounts or reports on a timely basis and to permit him or his representative to inspect them, in accordance with the provisions of the present Law;

(4) to fulfill the obligation concerning legal deposit, where the author has not done so; and

(5) any other obligations expressly set out in the contract.

Art. 104. – While the publishing contract is in force, the publisher shall be entitled to institute or continue any proceedings provided for in the present Law against acts that he considers detrimental to his rights, without prejudice to the right of the author and his successors in title to pursue the same proceedings, which they may do jointly with the publisher or separately.

Art. 105. – The right to publish separately one or more works by the same author shall not confer on the publisher the right to publish them together. Similarly, the right to

publish a collection of an author's works shall not entitle the publisher to publish them separately.

Art. 106. – Where the author dies before completing and submitting the master copy of a work or through no fault of his own is unable to finalize it, the publisher may deem the contract terminated, without prejudice to any royalties collected for the author. Where he opts to publish the part of the original that he has received, he may reduce the agreed fees accordingly.

Paragraph. – Where the nature of the work so permits, with the consent of the author, his heirs or his successors in title, a third party may be entrusted with completing the work; this fact shall be mentioned in the edition, in which the text thus added shall be clearly marked.

Art. 107. – Where an edition has not been produced, bankruptcy of the publisher shall have the effect of terminating the contract. Where production has been completed or begun, the contract shall continue until the reproduced copies have been sold. The contract shall continue until it is terminated if, when bankruptcy occurs, production has begun and the publisher or the receiver so requests, subject to guarantees that are adequate, in the opinion of the judge, to ensure that it can be fulfilled until it is terminated.

Paragraph. – Termination of the contract on these grounds shall confer, for the payment of remuneration owed to the author, a preferential right equal to that granted by the law for monies owed to employees.

Art. 108. – Where, after the edition of a work has been on sale to the public for three years, no more than thirty per cent (30%) of the copies that were published have been sold, the publisher may deem the contract terminated and may sell off the remaining copies at a price lower than that agreed or initially set by the publisher, reducing the author's remuneration in proportion to the new price, where it was agreed in proportion to the number of copies sold. In this case, the author shall have the preferential right to buy unsold copies at the public sale price, minus a forty per cent (40%) discount, for which purpose he shall have a period of sixty (60) days from the date on which the publisher has notified him of his decision to sell off such copies.

Paragraph. – Where the author avails himself of this right of purchase, he may not claim remuneration for such copies, if the remuneration was agreed in proportion to sales.

Art. 109. – Any increase or reduction in the sale price, the remuneration for which shall be paid to the author in proportion to the value of the copies sold, shall be taken into account in each half-yearly settlement from the publisher. To that end, the publisher shall be obliged to communicate to the author, in due written form, his decision to increase or reduce the price prior to the date on which it comes into effect.

Art. 110. – The publisher shall have the right to request registration of the copyright in the work on the author's behalf, where the author has not done so.

Paragraph. – To that end, the contract shall be considered to confer sufficient power to take the steps necessary for registration.

Art. 111. – Any publisher or person that publishes a work shall be obliged to indicate in a visible place on all the copies he publishes, including those that may be intended for distribution free of charge, the following information:

- (1) the title of the work;
- (2) the name or pseudonym of the author or authors and the name of the translator, unless they have decided to maintain their anonymity;
- (3) the name of the compiler, adapter or author of the version, where applicable;
- (4) the fact that the work is anonymous, where applicable;
- (5) reference to the reservation of copyright, with the symbol ©, accompanied by the name of the copyright holder and the year of first publication. The symbol, the name and the year shall be placed in such a manner and location as to indicate clearly that copyright is reserved;
- (6) the name and address of the publisher and the printer or of any other company that carries out production on behalf of the publisher; and
- (7) the date on which the printing or production of copies was completed.

Art. 112. – The provisions of this Chapter shall also apply, where appropriate, to publishing contracts for musical works.

Paragraph I. – In such cases, the author shall assign to the music publisher the exclusive right of publication and shall authorize him to carry out himself or have carried out by third parties the fixation and analog reproduction of the work, the adaptation thereof for audiovisual works, translation, sub-publishing and any other form of use established in the contract. The publisher shall be obliged to disclose the work as broadly as possible through all media available to him and to collect the relevant monetary share agreed by both parties.

Paragraph II. – The author shall have the right (which may not be waived) to consider the music publishing contract to be terminated where the publisher has taken no steps to disclose the work within the year following submission of the medium in which it is embodied, or where the work has not generated economic benefits within three years of the date of the contract, and the publisher does not demonstrate that he has taken positive steps to disseminate the work.

CHAPTER IV
CONTRACTS FOR INCLUSION OF A WORK IN PHONOGRAMS

Art. 113. – A contract for inclusion in phonograms shall be a contract under which the author authorizes the producer, against remuneration agreed in advance, to fix the work in a phonogram for the reproduction and distribution thereof. Such authorization shall not include the right of public communication.

Art. 114. – A phonogram producer shall be obliged to indicate or fix on all copies in which the work is included, in a visible place and in a permanent form, even on those copies intended for free distribution, the following information:

(1) the title of the work, the names or pseudonyms of the authors and the name of the author of the version or arrangement, where applicable;

(2) the names of the performers. Orchestral or choral ensembles shall be referred to by their own name or the name of their director, as appropriate;

(3) reference to the reservation of copyright with the symbol P (the letter "P" inscribed in a circle), followed by the year of first publication;

(4) the trade name of the phonogram producer or the trademark that identifies him; and

(5) the statement "All rights of the author, the performers and the phonogram producer are reserved. Reproduction, rental and public performance of phonograms is prohibited."

Paragraph. – Any information that cannot be indicated directly on the labels of the copies owing to lack of space shall be printed on the sleeve, the cover or the accompanying leaflet.

Art. 115. – In a contract for the inclusion of a work in a phonogram, unless otherwise agreed, the author's remuneration shall be proportional to the value of the copies sold and shall be paid in half-yearly settlements.

Art. 116. – The phonogram producer shall have a book-keeping system that permits verification, at any time, of the number of copies produced and sold. The author or his representatives or successors in title, and also the management society that administers their rights, may verify the accuracy of payments by inspecting the accounting records, works, warehouses, depots and offices of the producer, and any other form of evidence or place, with the assistance of a representative of the Copyright Unit.

Art. 117. – Authorization granted by the author or publisher, their successors in title or the management society that represents them to include the work in a phonogram

shall confer on the authorized producer the right to reproduce or grant licenses for the reproduction of their phonogram until the expiry of the agreed term or, failing that, for the period of protection established in this Law, provided that the agreed remuneration is paid.

Paragraph. – On expiry of the contract under which the remuneration was negotiated and in the absence of agreement, the parties shall refer their dispute for arbitration, taking as a guide for the resolution of the dispute the average internationally accepted financial terms.

Art. 118. – The author or his successors in title, or their duly authorized representatives, and also the performer and the phonogram producer or the management societies that represent them, may, jointly or separately, prosecute in the civil or criminal courts the unlawful reproduction or use of phonograms.

CHAPTER V PERFORMANCE CONTRACTS

Art. 119. – A performance contract shall be a contract under which the author of a dramatic or dramatico-musical, choreographic or any similar type of work authorizes a promoter to have the work performed in public in exchange for remuneration.

Art. 120. – For the purposes of this Law, "public performance" of a work means any performance that takes place outside the domestic environment and even within that environment if it is projected or disclosed outside. The performance of a theatrical, dramatico-musical, choreographic or similar work using mechanical production processes or by means of wire or wireless transmissions shall be considered public.

Art. 121. – The promoter shall announce to the public the title of the work, always accompanied by the name or pseudonym of the author and, where appropriate, those of the producer and the adapter, indicating the characteristics of the adaptation.

Art. 122. – Where the author's remuneration has not been determined contractually, he shall receive, as a minimum, ten per cent (10%) of the total takings for each show or performance and fifteen per cent (15%) thereof in the case of a premiere.

Art. 123. – Where the main performers of the work or the orchestra or choir conductors were chosen by mutual agreement between the author and the promoter, the promoter may not replace them without the prior consent of the author, except in the case of unforeseeable circumstances which make delay impossible.

Art. 124. – The promoter, who may be a natural or legal person, shall be obliged to stage the work within the period specified by the parties, which may not exceed one year. Where no period is specified or provision is made for a period longer than that mentioned, the period of a year shall be taken as agreed, without prejudice to the validity

of other contractual obligations. Said period shall be calculated from the date on which the work was submitted by the author to the promoter.

Art. 125. – Where the promoter does not pay the relevant share to the author when required to do so by him or his successors in title or representatives, or by the relevant management society, the competent authority, at the request of any of them, shall order the suspension of performances of the work and the seizure of the takings, without prejudice to other legal action that may be taken for the benefit of the right holder.

Art. 126. – Where the contract does not set an end date for performances, the promoter shall repeat them as many times as financially justified by public attendance. The authorization granted in the contract shall expire where the work ceases to be performed owing to lack of public attendance.

Art. 127. – Where the work is not performed within the period established in the contract, the promoter shall return to the author the copy of the work received by him and shall compensate him for the injury caused by the failure to perform the work.

TITLE VII PUBLIC COMMUNICATION OF MUSICAL WORKS

Art. 128. – The public communication by any means, including wire or wireless transmission, of a musical work with or without words, shall be subject to express prior authorization by the right holder or his representatives.

Art. 129. – For the purposes of the present Law, the following shall be considered to be included among the modes of public performance or communication: those that take place in theaters, cinemas, concert or dance halls, bars, clubs of any kind, stadiums, parks, circuses, restaurants, hotels, commercial, banking and industrial establishments and, lastly, any place in which musical works are performed or transmitted by telecommunication, whether with the direct participation of the performers or through mechanical, electronic, sound or audiovisual processes, apparatus or systems.

Art. 130. – Any person that is responsible for the management of the entities or establishments listed in the preceding Article or of any other venue in which public performances or communications of musical works take place shall be obliged to:

(1) keep daily lists, in strict order, of the title of each musical work performed, the name of the author or composer thereof, those of the performers involved or of the director of the group or orchestra, as the case may be, and the trademark of the producer, where the public performance consists in the playing of a fixation in a phonogram or videogram;

(2) send a copy of these lists to each of the management societies that represent the rights of the authors, performers or producers, as appropriate. The lists referred to in

the present Article shall be dated, signed and made available for examination to the interested parties or to the competent administrative or judicial authorities upon request.

Paragraph. – The management societies that represent the right holders mentioned shall send the relevant royalty statements with payments linked to copyright and related rights, calculated on the basis of the users' lists or declarations and the approved tariffs. In the absence of a list or declaration, the amount shall be estimated *ex officio* by said societies. Where the user makes no reasoned observations on the royalty statements within five days of the delivery thereof to the address where the works, performances or phonograms are being used, it shall be presumed that the accuracy of the accounts therein is acknowledged and they shall be reproduced in authentic instruments signed by the representative of each management society and the user before a notary public.

TITLE VIII RETRANSMISSION OF RADIO OR TELEVISION BROADCASTS

Art. 131. – Natural or legal persons authorized to provide the public service of broadcasting telecommunications (radio or television) by wireless means or by cable or another analogous process, pursuant to legislation relating to public telecommunications services, may not retransmit the signals broadcast by the originating organization of the transmission without the express authorization of that organization, and without prejudice to actions that may be taken, in addition, by the holders of rights of public communication in respect of works of any kind, artistic performances or phonographic productions contained in the signal that is retransmitted without authorization.

Art. 132. – The Copyright Unit shall be authorized to carry out at any time such monitoring and technical inspection visits as it deems relevant, with a view to ensuring compliance with legal provisions. The Unit shall be assisted by the telecommunications authority where necessary. Where it is determined that a natural or legal person transmitting or retransmitting signals or with a ground station or cable system is infringing any of the rights in the programming contained in the signal or those of the originating organization of the retransmitted broadcast, authorizations for unauthorized transmission or retransmission may be suspended temporarily, pending a contrary decision by the courts in an interim order or a ruling that has the irrevocable force of *res judicata*.

Paragraph. – The holders of concessions and licenses for wire or wireless retransmission operations shall be obliged to provide all facilities to said authorities so that inspections may be carried out without delay, subject to full identification of the inspector, who shall be allowed to check the operation of all the parts, apparatus and components in the system; he shall also be provided, without any restriction, with all the data necessary to carry out his task, and shall be shown plans, files, books and other documents on technical matters relating to the transmission or retransmission. The data and information obtained shall be confidential and exclusive to said authorities, which may be held personally responsible for any disclosure to third parties.

**TITLE IX
NEIGHBORING RIGHTS TO COPYRIGHT**

**CHAPTER I
GENERAL PROVISIONS**

Art. 133. – The protection afforded by the provisions of this Title to the holders of neighboring or related rights shall in no way affect the protection of copyright in the literary, scientific and artistic works provided for in the present Law. Consequently, none of the provisions contained in this Title may be interpreted as prejudicing such protection. In the event of doubt, a decision shall be made on the basis of the author's best interests.

Paragraph I. – Artistic performances, phonographic productions and broadcasts shall be protected by this Law, provided that the holder of any of the relevant rights is Dominican or is resident in the Dominican Republic, or where, regardless of the nationality or residence of the right holder, such performances, productions or broadcasts were made in the Dominican Republic or were first published there or were published there within 30 days of their first publication.

Paragraph II. – Artistic performances, phonographic productions and broadcasts not covered by the preceding paragraph shall be protected pursuant to the international agreements to which the Dominican Republic is a party or to which it becomes a party in the future. In the absence of an applicable agreement, they shall enjoy the protection established under this Law, provided that the State to which the right holder belongs grants equivalent protection to Dominican right holders.

Art. 134. – The neighboring rights of performers, phonogram producers and broadcast organizations shall be subject to the same limitations and exceptions provided for in this Law for literary, artistic or scientific works, as applicable.

**CHAPTER II
RIGHTS OF PERFORMERS**

Art. 135. – Performers shall have the exclusive right to authorize or prohibit:

- (1) the fixation of their unfixed performances;
- (2) the reproduction, by any process and in any form, of fixations of their performance;
- (3) the communication to the public of their performances, except where the performance is already a broadcast performance;
- (4) the distribution to the public of the original or copies embodying their performance fixed in a phonogram, by sale, rental or in any other way.

Art. 136. – Notwithstanding the provisions of the preceding Article, performers may not object to the public communication of their performances, where such communication is carried out using a fixation made with their prior consent and published for commercial purposes, without prejudice to the right to equitable remuneration for public communication of the phonogram embodying their performance, in the manner established in the following Chapter.

Art. 137. – In any case, performers shall retain the exclusive right to authorize the public communication of their performances fixed in phonograms, where it is carried out in such a way that members of the public may access them from a place and at a time individually chosen by them.

Art. 138. – No provision of the preceding articles shall be interpreted as restricting the right of performers to sign contracts on terms more favorable to themselves concerning any use of their performance.

Art. 139. – Where two or more performers take part in the same performance, it shall be understood that the consent provided for in the preceding articles shall be given by a representative of the group, if any, or, if there is none, by the director of the group.

Art. 140. – Performers shall also have the moral right to link their name or pseudonym to the performance and to prevent any distortion of the performance that would be prejudicial to their honor or reputation.

CHAPTER III PRODUCERS OF PHONOGRAMS

Art. 141. – A producer of a phonogram shall have the right to authorize or prohibit:

(1) the direct or indirect, temporary or permanent, reproduction of his phonogram, by any means or process;

(2) the distribution to the public of the original or copies of his phonogram, by sale, rental or in any other way;

(3) the making available to the public of his phonogram, by wire or wireless means, in such a way that members of the public may access it from a place and at a time individually chosen by them.

Art. 142. – Where a phonogram published for commercial purposes or a reproduction of such phonogram is used directly for any form of communication to the public, the person that uses it shall pay a single equitable remuneration to both the performers and the producer of the phonogram, a sum which shall be paid to the producer by the user.

Art. 143. – Half of the sum received by the phonogram producer pursuant to the preceding Article shall be paid by him to the performers or their representatives.

CHAPTER IV BROADCASTING ORGANIZATIONS

Art. 144. – Broadcasting organizations shall enjoy the exclusive right to authorize or prohibit the following acts:

- (1) the transmission of their broadcasts;
- (2) the fixation of their broadcasts;
- (3) the reproduction of a fixation of their broadcasts, where:
 - (a) the fixation from which the reproduction is made was not authorized; and
 - (b) the broadcast was initially fixed in accordance with the provisions of this Law, but the reproduction is made for purposes different from those indicated.

Paragraph I. – Similarly, broadcasting organizations shall have the right to obtain equitable remuneration for the public communication of their broadcasts, where it is carried out in places which the public accesses against payment of an admission or entry fee.

Paragraph II. – Equivalent protection to that provided for in this Article shall be granted to an originating organization that carries out its own sound or audiovisual transmission by cable, optic fiber or other analogous medium.

Art. 145. – Broadcasting organizations may make ephemeral fixations of works and performances, the right holders of which have consented to their transmission, for the sole purpose of using them in their own broadcasts for the number of times stipulated in the contract, and shall be obliged to destroy or delete them immediately after the last authorized transmission.

TITLE X THE PUBLIC DOMAIN

Art. 146. – The public domain shall be the regime to which works, performances, productions or broadcasts are transferred when they cease to enjoy the protection of a private economic right for any reason.

Paragraph. – The following shall belong chiefly to the public domain:

- (1) works, performances, productions and broadcasts the term of protection of which has expired;
- (2) expressions of folklore and traditional culture the author of which is unknown;
- (3) works, performances, productions or broadcasts the right holders of which have expressly waived their rights;
- (4) foreign works, performances, productions or broadcasts that do not enjoy protection in the Dominican Republic;
- (5) the works of authors or performers who have died without leaving successors or successors in title.

Art. 147. – For the purposes of subparagraph (3) of the preceding Article, the waiving by authors or heirs of their economic rights in a work shall be done in writing and registered with the Copyright Unit. Waivers shall not be valid in respect of rights acquired by third parties prior to the date of the waiver.

Art. 148. – The use in any form or by any process of works, performances, productions or broadcasts in the public domain shall be free.

Paragraph. – However, with regard to intellectual works and artistic performances in the public domain, the accreditation of the author or the performer and the integrity of the work or the performance, as the case may be, shall always be respected.

TITLE XI REGISTRATION AND LEGAL DEPOSIT

CHAPTER I NATIONAL COPYRIGHT REGISTRY

Art. 149. – The National Copyright Registry shall report to the Copyright Unit and shall be responsible for the registration of works, performances, productions, including phonograms and broadcasts protected by this Law, instruments and contracts referring to copyright or neighboring rights, constituent documents of collective management societies and amendments thereto, and other instruments and documents referred to in the Regulations.

Art. 150. – The following shall be subject to registration:

- (1) scientific, literary or artistic works, performances, phonographic productions and broadcasts in the private domain that the relevant right holders voluntarily submit for registration;

(2) instruments or contracts under which all or some of the rights recognized under this Law are transferred and those which constitute rights of enjoyment thereof and which the interested parties opt to register;

(3) judicial, administrative or arbitral decisions that entail the establishment, declaration, clarification, adjudication, modification, limitation, encumbrance or transfer of rights, that provide for precautionary measures or that affect a declaration or registration made with the Registry;

(4) constituent documents of collective management societies and amendments thereto, and also other documents relating to such entities, as provided for in the Regulations;

(5) arrangements or agreements concluded by management societies with foreign societies;

(6) powers conferred on natural or legal persons to deal with the Copyright Unit;

(7) pseudonyms of authors who wish to remain anonymous, who may deposit their true identity in a sealed envelope;

(8) other instruments or documents, as set out in the Regulations.

Art. 151. – The purpose of registering works, performances, productions or broadcasts and other instruments that can be registered pursuant to the preceding Article is to:

(1) publicize the rights of right holders, and instruments and contracts relating to those rights;

(2) guarantee authenticity and security for holders of copyright and neighboring rights and with respect to the instruments and documents that refer to them;

(3) publicize the establishment of collective management societies.

Art. 152. – The Copyright Unit shall specify, in a reasoned decision that shall be issued within 30 days of the publication of the Law, the data, enclosures or specifications that shall be provided for the purposes of registration, depending on the characteristics of the different types of works, performances, productions or broadcasts, or instruments or documents submitted for registration.

Art. 153. – Persons applying for registration shall not pay any fee for the first certificate granted, but for any other certificate, copy, extract or document requested, they shall pay the fees set out in the Regulations issued for that purpose by the Executive.

Art. 154. – The protection of copyright and neighboring rights shall be independent of any formality and, consequently, failure to register shall not prejudice the rights recognized under this Law, so that registration shall not be a basic condition of procedural admissibility or of the enjoyment or exercise of those rights. Registration shall establish only the presumption that the facts and acts recorded in the entry are true, in the absence of proof to the contrary. Any registration shall be without prejudice to the rights of third parties.

Art. 155. – Where two or more persons apply for registration of the same work, performance, production or broadcast, it shall be registered under the terms of the first application, without prejudice to the right to contest the registration. In the event of a dispute, the effects of registration shall be suspended until the Copyright Unit decides to whom the registration belongs. The Unit's decision shall not influence the judge who is authorized to rule on the dispute between the applicants, nor may it have the effect of suspending the proceedings while the Unit rules on the contested registration. Unless otherwise agreed, each of the joint authors of a work may apply for the registration of the complete work on behalf of all the joint authors.

CHAPTER II LEGAL DEPOSIT

Art. 156. – The author or his successors in title and, in their absence, the publisher or producer of the works covered by the present Law and of phonograms shall be obliged to effect the legal deposit under the terms established by the present Chapter and the provisions of the Regulations.

Paragraph. – Such deposit shall not prevent the enjoyment or exercise of copyright and neighboring rights recognized under the present Law.

Art. 157. – Where the work is published in printed form, three (3) copies shall be submitted to the National Library. Such deposit shall be made within sixty (60) days of publication.

Paragraph. – The same requirements shall apply to the deposit of phonographic productions.

Art. 158. – In the case of an audiovisual work or a work obtained by an analogous process, it shall be sufficient to deposit as many photographs as there are main scenes in the production, together with a summary of the plot. The name of the producer and joint authors of the work, the main performers and the format and duration of the audiovisual work shall also be indicated.

Art. 159. – For computer programs and databases it shall be sufficient, for the purposes of deposit, to indicate in writing the name of the producer, the title of the work, the year of publication and a description of their functions or content, as appropriate, and also any other feature that distinguishes them from other works of the same type, and a

photograph or slide on which shall be indicated, on the display, the title of the work, the author and the producer.

Art. 160. – The Copyright Unit shall establish, by a reasoned decision that shall be issued within 30 days of the publication of the Law, the characteristics of the legal deposit of other types of literary, artistic or scientific works.

Art. 161. – Fulfillment of the legal deposit obligation, in accordance with the rules set out in this Law, shall be an essential prerequisite for the registration of works and phonograms that are subject to the deposit obligation, and shall be verified by submission of the relevant receipts. Failure to fulfill the legal deposit obligation shall entail payment of a sum equivalent to ten (10) times the commercial value of the copies that were not deposited, which shall be paid jointly by the persons obliged to effect such deposit, but shall not limit the exercise of the rights conferred by the present Law.

TITLE XII COLLECTIVE MANAGEMENT SOCIETIES

Art. 162. – Collective management societies for authors or holders of neighboring rights established in accordance with this Law and the Regulations thereunder shall be public interest organizations and shall have legal personality and their own assets. No more than one society may be established for each literary or artistic branch or specialization of right holders recognized under this Law.

Paragraph I. – The main purpose of such societies shall be to defend the economic rights of their members or the persons they represent and those of the members of, or persons represented by, foreign entities of the same nature with which they hold contracts for representation in the national territory. However, membership of such societies shall be voluntary, and authors may at any time act on their own behalf to secure their rights through an agent, who shall be a natural person and shall be authorized by the Copyright Unit. In such cases, the management society shall be duly notified of this circumstance and shall refrain from taking any action concerning the holder's rights.

Paragraph II. – Management societies shall be authorized to begin operation by a decree of the Executive, following a favorable ruling by the Copyright Unit, which shall be responsible for monitoring and inspecting them, in accordance with the present Law and the Regulations thereunder.

Paragraph III. – The Copyright Unit, for the purposes of issuing a ruling on an authorization for operation, shall verify that the management society fulfills the requirements set out in the present Law and the Regulations thereunder. Said ruling shall be issued by means of a reasoned decision.

Paragraph IV. – Without prejudice to the relevant provisions of the Regulations, each management society must guarantee, in its statutes and its operation, the following terms:

(a) broad access for all right holders to the collective management society under reasonable membership terms;

(b) effective involvement of right holders or their representatives in important decisions concerning the administration of their rights;

(c) a system of collection, distribution and monitoring of royalties that is effective and transparent and treats all right holders equally, whether Dominican nationals or foreigners. Every management society shall have a system of internal and external audit;

(d) broad access for right holders or their representatives or for foreign organizations that have reciprocal representation relationships to specific and detailed information relating to basic data about their respective works or catalogs;

(e) an election mechanism that guarantees the periodic renewal of the membership of the management society's governing council and of its monitoring committee. The President of the collective management society shall be Dominican. He may be re-elected only once for a period of two years; however, he may reapply for the position once one such period has elapsed since the end of his last term of office;

(f) reasonable rates for administration costs, and special requirements with regard to experience and ability for the recruitment of their administrators or managers;

(g) all instruments and agreements concluded by the management society shall be in writing.

Art. 163. – Duly authorized collective management societies may exercise the rights entrusted to them for administration and assert those rights in administrative or judicial proceedings of any kind, without presenting any evidence of their entitlement to do so other than the authorization decree and the statutes; it shall be presumed, in the absence of proof to the contrary, that the rights exercised have been entrusted to them, directly or indirectly, by their respective holders.

Paragraph. – Without prejudice to such legitimation, management societies shall make available to users, in the media used by them for their management activities, the applicable tariffs and the catalog of rights, national or foreign, that they administer, for consultation at the society's central offices. Any other form of consultation shall be carried out at the expense of the person that requests it.

Art. 164. – Collective management societies may establish tariffs relating to the relevant remuneration for the licenses that they grant for the use of the works, performances or productions in their catalog. These tariffs and amendments thereto shall be officially approved by the Copyright Unit and published in the form provided for in the Regulations within thirty (30) days of the date of official approval thereof.

Paragraph. – Anyone that exploits a work, performance or production administered by a collective management society without having been granted the relevant license for use must pay, as compensation, a surcharge of fifty per cent (50%) in addition to the remuneration in the tariff, which shall be applied for the entire time during which the exploitation took place, provided that no greater injury is proved in the specific case in question.

Art. 165. – The tariffs set by collective management societies for the exploitation of the catalog administered shall be proportional to the income obtained by the user from the exploitation thereof.

Paragraph I. – However, said tariff may consist of a fixed periodic sum in the following cases:

(a) where, owing to the mode of exploitation, there is a serious difficulty in determining the income, or where it is impossible to verify it, or where the cost of doing so is disproportionate to the likely remuneration;

(b) where the use of the works, performances or productions is of a secondary nature in relation to the user's main activity or the material object for which they are intended;

(c) in the absence of the necessary means for monitoring the application of the proportional share.

Paragraph II. – Rights and royalties to be collected by societies of authors shall not expire in favor of said societies and to the detriment of their members. In the case of dues or fees for foreign authors, the principle of reciprocity shall be taken into account.

Art. 166. – Collective management societies may conclude contracts with users and with the organizations that represent them relating to the use of the catalog that they administer.

Paragraph. – In such cases, the tariffs or remuneration agreed in such contracts may not be greater than those published by the society and officially approved by the Copyright Unit. The management society shall be obliged to pay royalties and interest within three months of receiving them.

Art. 167. – Collective management societies may be punished by the Copyright Unit, in the manner specified in the Regulations and in accordance with the seriousness of the fault, where they carry out acts that harm the interests of their members or the persons they represent, without prejudice to any criminal penalties or civil proceedings to which their directors, managers or administrators may be subject.

TITLE XIII

INFRINGEMENTS OF COPYRIGHT AND NEIGHBORING RIGHTS

CHAPTER I RIGHT TO CHOOSE PROCEEDINGS

Art. 168. – A holder of copyright or of a neighboring right, his successors in title, or anyone that represents them by agreement shall be entitled to choose which of the types of proceedings provided for in the present Law – civil, criminal or administrative – they wish to institute in order to exercise the rights conferred by the Law. No exception or procedural delay with respect to the right to choose proceedings shall be admissible for the continuation of proceedings instituted.

PENALTIES

Art. 169. – The following persons shall incur a prison sentence of three months to three years and a fine of 50 to 1,000 times the minimum wage:

(1) anyone that registers a literary, artistic or scientific work, artistic performance, phonographic production or broadcast with the Registry or disseminates it, using any medium, as his own, in whole or in part, in its original form or attempting to disguise it by means of alterations or deletions, and attributing to himself or to another person the authorship or other form of ownership thereof;

(2) anyone that, in respect of a literary, artistic or scientific work, artistic performance, phonographic production or broadcast, without express authorization:

- (a) modifies it in whole or in part;
- (b) reproduces it, in whole or in part, by any means or in any form;
- (c) distributes it by sale, rental or in any other way;
- (d) communicates or disseminates it through any of the public communication media reserved for the holder of the relevant right;
- (e) reproduces, distributes or communicates it in a greater number than that expressly authorized;
- (f) knowing the unlawful origin of the copy or reproduction, distributes it to the public, stores or conceals it, or brings it into or takes it out of the country; or
- (g) reproduces, distributes or communicates it by any means after expiry of the term of the assignment or license granted;

(3) anyone that discloses an unpublished or undisclosed work that he has received in confidence from the author or his successor in title or a person acting on his behalf, without authorization for disclosure granted by the right holder;

(4) anyone that, in respect of a literary, artistic or scientific work, artistic performance, phonographic production or broadcast, falsely attributes to himself the status of original holder of or successor in title to any of the rights recognized under the present Law and, through such undue attribution, causes the competent authority to suspend the act of communication, reproduction or distribution of the work, performance or production;

(5) anyone that communicates, reproduces or distributes the work, artistic performance, phonographic production or broadcast by any means or process, deleting or altering the name or pseudonym of the author, performer, phonogram producer or broadcasting organization, as the case may be;

(6) anyone that communicates, reproduces or distributes the work, artistic performance, phonographic production or broadcast by any means or process, with alterations or deletions that could prejudice the integrity thereof or the reputation of the relevant right holder;

(7) anyone that submits false statements relating to certificates of income, public attendance, repertoire used, identification of the authors or performers, the authorization obtained, the number of copies reproduced or distributed, or any falsification of data likely to prejudice any of the holders of rights recognized under the present Law;

(8) anyone that produces, assembles, imports, modifies, sells or in any other way places in circulation devices, systems or equipment capable of circumventing or deactivating another device intended to prevent or restrict the making of copies of the work, performance, production or broadcast or to diminish the quality of the copies made, or capable of circumventing or deactivating another device intended to prevent or control the reception, by persons not authorized to receive them, of programs transmitted by wire or wireless means of telecommunication or in any other way to the public;

(9) anyone that alters, removes or circumvents in any way technical devices or means incorporated in protected works, performances, productions or broadcasts that prevent or restrict the reproduction or control thereof, or carries out any of those acts in respect of encrypted signals aimed at restricting the communication by any means of works, performances, productions or broadcasts;

(10) anyone that removes or alters any electronic information on the collective management of rights recognized under this Law without authorization, or distributes, imports for distribution, broadcasts, communicates or makes available to the public, without authorization, works, performances or productions, knowing that the relevant electronic rights management information has been removed or altered without authorization;

(11) anyone that uses a work, performance, production or broadcast in any other way that infringes one of the exclusive economic rights recognized under the present Law.

Art. 170. – The following persons shall incur a fine of 10 to 50 times the minimum wage:

- (1) anyone that is authorized to publish a work but:
 - (a) does not mention on the copies the name of the author, translator, adapter, compiler or arranger, as the case may be;
 - (b) prints the name of the right holder with additions or deletions that affect his reputation;
 - (c) publishes the work with abridgments, additions or deletions or with any other amendment, without the authorization of the right holder;
 - (d) publishes two or more works separately, where the authorization was granted to publish them together, or publishes them together, where he was authorized only to publish them separately;
- (2) anyone that abuses the right of quotation established by the present Law;
- (3) anyone that misappropriates, amends or alters the protected title of a work, under the terms of this Law;
- (4) anyone that, having previously been authorized by the right holders to carry out an act of public communication, is responsible for the failure to pay the relevant remuneration;
- (5) anyone that includes in a phonographic production, in the form of inscriptions on the cover or in an attached leaflet, references intended to mislead the public with respect to the version of the phonogram being made available to them;
- (6) anyone that fails to fulfill the formalities provided for in the present Law regarding the references that must be made on copies of an edition or of a phonographic production;
- (7) anyone that omits the compulsory announcements provided for in the performance contract;
- (8) anyone that fails to fulfill the obligations to compile and send the lists referred to in the Title of this Law that relates to the public communication of musical works.

Art. 171. – Liability for the acts described in the preceding articles shall extend to persons that order or arrange for the commission thereof, the legal representatives of legal persons, and all persons that, in the knowledge that an act is unlawful, take part in it, facilitate it or are complicit in it.

Paragraph. – In the event of a repeat infringement, the infringer shall incur the maximum penalty specified in the present Law.

Art. 172. – The fines specified in this Chapter shall be increased to up to three times the amount of the material injury caused, where such injury has caused the victim serious difficulties by jeopardizing his livelihood.

Paragraph. – In the event of insolvency, the infringer shall be sentenced to one day's imprisonment for every peso oro unpaid; however, under no circumstances may the term exceed two years.

Art. 173. – Any unlawful reproduction shall be confiscated and awarded under the terms of the sentence to the right holder whose rights were infringed thereby, unless the right holder requests the destruction thereof. Materials and equipment used in the unlawful acts shall also be seized and destroyed or handed over to the injured party, all without prejudice to any civil proceedings brought against the infringer for compensation for the injury caused by the infringement of his right.

Paragraph I. – In any case, all copies reproduced, transformed, communicated or distributed to the public in infringement of copyright or neighboring rights recognized under this Law and all materials and equipment used in the unlawful acts, and also information or business documents relating to the commission of the offense, may be seized provisionally without referring to or hearing the other party, at any stage of the proceedings, even before a criminal case is instituted, at the request of the holder of the infringed right, regardless of whose possession they are in, by the Public Prosecutor's Office in the judicial district where said goods are situated.

Paragraph II. – The Public Prosecutor may, at any time and even before the start of criminal proceedings, without the other party present (*ex parte*), carry out such investigations or assessments as he deems necessary in order to establish the existence of infringing material, in the places in which such material may be found.

Art. 174. – The criminal authorities shall jointly hear proceedings relating to the infringements referred to in this Chapter, in accordance with the general rules on competence. Both at the investigation stage and during the trial, the procedures set out in the Code of Criminal Procedure shall be observed; it shall be understood that judges are not authorized to reduce sentences below the legal minimum, even where there are attenuating circumstances.

Art. 175. – Criminal proceedings relating to infringements of this Law may be instituted by any person in all cases; where no party brings a complaint, they shall be instituted *ex officio*.

CHAPTER II CIVIL PROCEEDINGS AND RELATED PROCEDURES

Art. 176. – Civil proceedings instituted on the basis of this Law shall be heard and ruled on by the court of first instance in the place where the defendant resides, in accordance with the rules of ordinary procedure, except where special competence is established by law.

Art. 177. – Any person that, without the consent of the right holder, carries out any act that is the subject of one of the moral or economic rights recognized under the present Law shall be liable to the right holder for the injury caused by the infringement of his right, whether or not he knowingly committed the infringement.

Paragraph. – Damages shall under no circumstances be lower than the minimum fine established as a criminal penalty for the relevant offense relating to each infringement.

Art. 178. – The owner, partner, manager, director, legal representative or person responsible for activities carried out in places where infringements of the present Law are committed shall be jointly liable for infringements of rights that occur in said places.

Art. 179. – Where the holder of any of the rights recognized under the present Law has good reason to suspect an infringement of his right or to suspect that some or all of the evidence of an unlawful act may disappear, he may request the judge, without prior reference to the other party, to authorize the preventive seizure or confiscation of the following goods, to be handed over to himself or to a third party:

(1) copies of any work, performance, production or broadcast reproduced without the authorization of the holder of the relevant right, and equipment or devices that have been used to commit the unlawful act, and also any information or business documents relating to the act;

(2) the proceeds of the sale, rental or any other form of distribution of unlawful copies;

(3) income obtained from unauthorized acts of public communication; and

(4) devices used to deactivate systems intended to prevent or restrict the making of unlawful copies or aimed at circumventing mechanisms installed for the purpose of preventing or controlling unauthorized reception or retransmission.

Paragraph. – The affected right holder may also request the immediate suspension of the unlawful activity, in particular reproduction, distribution, public communication or unlawful importation, as the case may be.

Art. 180. – For the purposes of instituting the civil proceedings provided for in the preceding articles, where the holder of copyright or of a neighboring right, his successors in title or anyone that represents them by agreement have reason to suspect an infringement of their rights, they may request the judge of first instance, prior to the lodging of the principal proceedings or claim, to issue an order for judicial inspection of the place where acts that infringe the present Law or the Regulations thereunder are suspected of taking place. Such inspection may also be ordered for infringing goods and equipment found at customs posts.

Paragraph I. – The judge shall state in the same order that, where the inspection carried out gives grounds for serious suspicion that any acts that infringe this Law or the Regulations thereunder are taking place, all items that constitute an infringement of the law, and apparatus used to commit such infringements, shall be subject to immediate preventive seizure or confiscation, and the infringer shall be ordered to cease the unlawful activity immediately.

Paragraph II. – The judge may order inspectors from the Copyright Unit to be present at such inspection; together with the officiating public prosecutor, they shall prepare a report on everything that takes place in the course of enforcing the measure.

Art. 181. – The inspection report shall contain, in addition to declarations equivalent to bailiffs' acts, the inspection order printed at the top of the page, the name of the person seeking evidence, the full address of the inspected location, the name of the natural or legal person that is the subject of the inspection, the type of protected work, performance, production or broadcast that is the suspected subject of infringement, the number of copies unlawfully reproduced, if any, and, if such copies exist, a description of the equipment used to reproduce them if it is located in the same place, and any other information deemed to be relevant. In the case of audiovisual works and computer programs, the reports shall also contain the name of the relevant producer.

Paragraph. – The report shall be signed by the inspectors from the competent authority, if they were present, and by two witnesses called for the purpose, whose particulars shall be recorded.

Art. 182. – The inspection order shall be enforced on the basis of a draft, notwithstanding an interim action or appeal against it, and the owner, tenant, occupier or person responsible for the place, premises or commercial enterprise where the measure is to be carried out may not object to the carrying out or enforcement thereof.

Paragraph. – Where a preventive seizure or confiscation is carried out as a result of the inspection, the same judge that ordered the inspection shall order the lifting of the measure at the request of the party against which it was enforced, if, on expiry of 30 clear

days since the enforcement thereof, no principal claim for proceedings in respect of the infringement of the right has been lodged.

Art. 183. – In a final judgment establishing that an infringement has taken place, the judge shall order the copies unlawfully reproduced or used and the tools used for reproduction to be destroyed or handed over to the plaintiff. At the request of the interested party, the court may order the operative part of the judgment to be published at the expense of the losing party, in one or more newspapers indicated by the judge in his decision.

Art. 184. – A non-resident foreign defendant shall not be obliged to give a financial guarantee to cover legal costs, *cautio judicatum solvi*, as provided for in Article 16 of the Civil Code of the Dominican Republic and Articles 166 and 167 of the Code of Civil Procedure.

CHAPTER III BORDER MEASURES

Art. 185. – Where a holder of copyright or of a neighboring right, his successors in title, anyone that represents any of them by agreement, or the relevant collective management society have valid grounds to suspect that the importation or exportation of goods that infringe copyright or neighboring rights may take place, they may request that the release into free circulation of such goods be suspended. The relevant application shall be filed with the General Customs Directorate or the competent Public Prosecutor's Office. These authorities may, *ex officio*, suspend the release of goods that are suspected of being infringing goods.

Paragraph I. – Where the General Customs Directorate orders the suspension of the release of goods, whether *ex officio* or at the request of the right holder or the Public Prosecutor's Office, it shall be obliged within a period of no more than five (5) days to notify the applicant and the importer of the period for which the suspension has been granted, so that the applicant may file the relevant substantive application or request other measures or a criminal court may be authorized to hear the case, and so that the owner, importer or recipient of the goods may request the judge of first instance in civil or criminal matters, as appropriate, to modify or revoke the measures taken.

Paragraph II. – An applicant that has secured measures through the courts shall file a substantive application within no more than thirty (30) clear days. Where the suspension has been ordered by the administrative authorities, the period for filing the substantive application shall be reduced to ten (10) clear days, which may be extended for a further ten (10) days.

TITLE XIV THE COPYRIGHT UNIT

Art. 186. – The Copyright Unit shall operate in the capital of the Republic, with jurisdiction throughout the national territory, and shall be responsible for the functions assigned to it under the present Law and others attributed to it under the Regulations, which shall specify the position of the Unit in the administrative organization of the State.

Art. 187. – The functions of the Copyright Unit shall be to:

- (1) organize and administer the Copyright Registry;
- (2) authorize, inspect and monitor collective management societies;
- (3) intervene as a conciliation body, even *ex officio*, and as an arbitration body, where requested to do so by the parties, in disputes that may arise in connection with the enjoyment or exercise of the rights recognized under the present Law;
- (4) apply, *ex officio* or at the request of a party, the administrative penalties for which it has competence, in accordance with this Law and the Regulations thereunder;
- (5) carry out, *ex officio* or at the request of a party, monitoring and inspection of activities that may entail the exercise of copyright or neighboring rights;
- (6) conduct awareness campaigns and education and training programs in the fields of copyright and related rights;
- (7) order and carry out inspections and preventive or precautionary measures, including for the purpose of evidence-gathering; the Unit may act on the basis of an express and reasoned claim from the right holder, his duly authorized representatives or successors in title or the relevant collective management society, or even *ex officio*;
- (8) perform such other functions as may be established by this Law and the provisions of the Regulations.

Art. 188. – The Copyright Unit shall be authorized, through its officials, to:

- (1) enter freely and without prior notification places in which the subject of an infringement of one of the rights recognized under the present Law may be found, or where such infringement is suspected of taking place;
- (2) carry out any search, check or investigation that it deems necessary in order to ensure that the relevant legal provisions in force are being observed, in particular to:
 - (a) question, alone or before witnesses, the staff and executives of the company about any matter relating to the implementation of the present Law or the Regulations thereunder;

- (b) request the submission of registrations, licenses, authorizations or documents relating to these matters and to the marketing of unlawfully reproduced goods;
- (c) prepare a report on any irregularities identified in this regard;
- (d) order the immediate suspension of the unlawful activity;
- (e) detain any unlawful material, including equipment used for unauthorized use and the relevant documents.

Paragraph. – The Copyright Unit may request the assistance of the law enforcement authorities in order to ensure compliance with the provisions of the present Article.

Art. 189. – The Copyright Unit shall verify infringements of the present Law in reports that shall be prepared at the site where such infringements are committed. The facts and data recorded in such reports shall be presumed to be true until proved false. These documents shall contain compulsory references to the reports of judicial inspections.

Paragraph. – The Copyright Unit and its staff must treat as confidential the source of any report of an infringement and, consequently, shall not inform the company or its representative or any other person that a visit is being carried out on the basis of the information received.

TITLE XV FINAL, REPEALING AND TRANSITIONAL PROVISIONS

Art. 190. – Rights in works protected under the provisions of Law No. 1381 of 1947 and Law No. 32-86 of July 4, 1986, shall enjoy the longer periods of protection established by the present Law.

Art. 191. – Rights in works of Dominican nationals and foreigners resident in the Dominican Republic that did not enjoy protection under Law No. 1381 of 1947 because they were not registered and that returned to the private domain under Law No. 32-86 shall also automatically enjoy the protection granted by the present Law, without prejudice to rights acquired by third parties prior to the entry into force thereof.

Art. 192. – Works, performances, productions, including phonograms, or broadcasts of foreign right holders that do not enjoy protection until a convention or treaty with their country of origin enters into force shall enjoy protection as from the entry into force of the present Law or of such convention or treaty, if later, for the remainder of the applicable period of protection.

Art. 193. – The Executive shall issue the relevant Regulations.

Art. 194. – This Law shall repeal and replace:

(1) Law No. 32-86 on Copyright of July 4, 1986;

(2) Decree No. 85-93 of March 28, 1993, by which the third set of Regulations for the implementation of the Law on Copyright relating to the use, distribution and commercial exploitation of videograms was approved;

(3) all other contrary laws, regulations and provisions.

Art. 195. – Until the Regulations under the present Law are issued, the provisions of the first set of Regulations for the implementation of Laws No. 32-86 and No. 82-93 of March 28, 1993, that are not contrary to the present Law shall remain in force.

DONE at the Meeting Hall of the Chamber of Deputies, Palace of the National Congress, in Santo Domingo de Guzmán, National District, capital of the Dominican Republic, on July 24, 2000, the 157th year of Independence and the 137th year of the Restoration.

Rafaela Alburquerque
President

Ambrosina Saviñón Cáceres
Secretary

Germán Castro García
Ad Hoc Secretary

DONE at the Meeting Hall of the Senate, Palace of the National Congress, in Santo Domingo de Guzmán, National District, capital of the Dominican Republic, on July 26, 2000, the 157th year of Independence and the 138th year of the Restoration.

RAMON ALBURQUERQUE RAMÍREZ

GINETTE BOURNIGAL
Secretary

ANGEL D. PEREZ PEREZ
Secretary

In exercise of the powers conferred on me by Article 55 of the Constitution of the Republic, I hereby **ENACT** the present Law and order it to be published in the *Official Gazette* so as to make it known and ensure compliance therewith. **DONE** at Santo Domingo de Guzmán, National District, capital of the Dominican Republic, on August 21, 2000, the 157th year of Independence and the 138th year of the Restoration.

HIPÓLITO MEJIA