

Dahir No. 1-00-20 of 9 Kaada 1420 (February 15, 2000) enacting Law No. 2-00 on Copyright and Related Rights

PRAISE BE TO GOD ALONE!
(Grand Seal of His Majesty Mohammed VI)
May it be known by the present – may God raise and strengthen its content!
That our Sherifian Majesty,
Considering the Constitution, particularly Articles 26 and 58,
HAS DECIDED THE FOLLOWING:
Law No. 2-00 on Copyright and Related Rights, as adopted by the House of Counselors and the House of Representatives, is enacted and shall be published in the Official Gazette following this Dahir.
Done at Marrakech, on **9 Kaada 1420** (February 15, 2000).
Countersigned by:
The Prime Minister,
ABDERRAHMAN YOUSOUFI

*
* *

Dahir No. 1 - 05 - 192 of 15 Moharrem (February 14, 2006) enacting Law No. 34-05 amending and supplementing Law No. 2-00 on Copyright and Related Rights

PRAISE BE TO GOD ALONE!
(Grand Seal of His Majesty Mohammed VI)
May it be known by the present – may God raise and strengthen its content!
That our Sherifian Majesty,
Considering the Constitution, particularly Articles 26 and 58,
HAS DECIDED THE FOLLOWING:
Law No. 34-05 amending and supplementing Law No. 2-00 on Copyright and Related Rights, as adopted by the House of Counselors and the House of Representatives, is enacted and shall be published in the Official Gazette following this Dahir.
Done at Ifrane, on 15 Moharrem 1427 (February 15, 2006).
Countersigned by:
The Prime Minister,
DRISS JETOU

**Law No. 2-00 on Copyright and Related Rights
as amended and supplemented by Law No. 34-05**

PART I

COPYRIGHT
CHAPTER I
Introductory Provisions
Definitions
First Article

The terms used in this Law and their different alternatives shall have the following meanings:

(1) The “author” means the natural person who has created the work; any reference in this Law to the economic rights of authors, when the original owner of these rights is a natural

person or legal entity other than the author, shall be extended to cover the rights of the original rights' owner.

(2) The "work" means any literary or artistic creation under the terms of Article 3 below.

(3) A "collective work" means a work created by several authors at the initiative of a natural person or legal entity which shall publish it, subject to its own responsibility and in its own name, and in which the personal contributions of the authors who have helped to create the work shall be based on the whole of the work, without it being possible to identify the different contributions and their authors.

(4) A "collaborative work" means a work which two or more authors have helped to create.

(5) A "derived work" is to be understood as any new creation which has been designed and produced from one or more pre-existing works.

(6) A "composite work" means the new work in which a pre-existing work is incorporated without the collaboration of the author of that work.

(7) An "audiovisual work" means a work which consists of a series of interlinked images which give an impression of movement, accompanied by sounds or otherwise, which can be seen and, where it is accompanied by sounds, able to be heard. This definition shall also apply to cinematographic works.

(8) A "work of applied art" means an artistic creation with a utilitarian function or incorporated in an article of use, be it a work of craftsmanship or one that is produced by industrial processes.

(9) A "photographic work" means the recording of a light or other radiance on any carrier on which an image is produced or from which an image may be produced, irrespective of the nature of the technique (chemical, electronic or other) by which the recording is made.

An image extracted from an audiovisual work shall not be regarded as a photographic work, but as a part of the audiovisual work.

(10) "Expressions of folklore" means productions of elements characteristic of the traditional artistic heritage developed and preserved on the territory of the Kingdom of Morocco by a community or by individuals recognized as meeting the traditional artistic expectations of this community and comprising:

- (a) popular tales, popular poetry and mysteries;
- (b) songs and popular instrumental music;
- (c) popular dances and shows;
- (d) productions of the popular arts such as drawings, paintings, sculptures, terracottas, potteries, mosaics, works on wood, metallic objects, jewels, textiles, costumes.

(11) A "work inspired by folklore" is to be understood as any work composed with the aid of elements borrowed from the Moroccan traditional cultural heritage.

(12) The "producer" of an audiovisual work means the natural person or legal entity that takes the initiative and responsibility for producing the work.

(13) A "computer program" means a series of instructions expressed in words, codes, diagrams or any other form which, once they are incorporated in a carrier that can be deciphered by a machine, are able to accomplish a particular task or obtain a specific result,

using a computer or an electronic method able to process the information.

(14) “Databases” means any collection of works, data or other independent elements, arranged systematically or methodically, and which are individually accessible by electronic or any other means.

(15) The term “published” refers to a work or a phonogram, copies of which have been made available to the public with the author’s consent in the case of a work, or with the producer’s consent in the case of a phonogram, for the sale, hiring, public loan or any other transfer of ownership or possession, in sufficient quantities to meet the normal needs of the public.

(16) “Broadcasting” means the communication of a work, performance or phonogram to the public by wireless transmission, including satellite transmission.

(17) “Reproduction” means the manufacture of one or more copies of a work, performance or phonogram, or part thereof, in any form whatsoever, including the sound and visual recording, and permanent or temporary storage, of a work, performance or phonogram, in electronic form.

(18) The “reprographic reproduction” of a work means the manufacture of facsimile copies of originals or copies of the work by means other than painting, for example, photocopying. The manufacture of facsimile copies that are reduced or enlarged shall also be regarded as “reprographic reproduction”.

(19) “Hiring” means the transfer of ownership of the original or a copy of a work or phonogram for a fixed duration, for profit-making purposes.

(20) “Public performance” means the fact of reciting, playing, dancing, or otherwise performing a work, either directly, or by means of any device or process—or, in the case of an audiovisual work, showing the images thereof in series or making audible the sounds which accompany it—in one or more places where persons external to a family circle and those immediately around it are or may be present, irrespective of whether these persons are or may be present in the same place and at the same time, or in different places and at different times, where the performance may be perceived, without there necessarily being public communication as defined in paragraph (22) below.

(21) “Performing a work” means reciting, playing, dancing or performing the work, either directly or by means of any device or process or, in the case of an audiovisual work, showing the images of the work in any order or making the sounds accompanying it audible.

(22) “Public communication” means the wire(less) transmission of the image, sound, or image and sound, of a work, performance or phonogram in such a way that these may be perceived by persons external to a family circle and those immediately around it, located in one or more places sufficiently far from the place of origin of the transmission so that, without this transmission, the image or sound cannot be perceived in this (these) place(s), irrespective of whether these persons may perceive the image or sound in the same place and at the same time, or in different places and at different times which they have chosen individually.

(23) “Performers” means actors, singers, musicians, dancers and other persons who perform, recite, sing, declaim, play or perform in any other manner artistic and literary works or expressions of folklore.

(24) A “copy” means the result of any act of reproduction.

(25) A “phonogram” means any physical media containing sounds reproduced directly or indirectly from a phonogram and which incorporates all or part of the sounds fixed on this phonogram.

(26) A “phonogram producer” means the natural person or legal entity that takes the initiative and assumes responsibility for the first fixation of the sounds originating from a performance, or other sounds or representations of sounds.

(27) The “fixation” means the embodiment of images, sounds, or images and sounds, or a performance thereof, allowing them to be seen, reproduced or communicated by means of a device.

CHAPTER II
Subjects of Protection
General Provisions
Article 2

All authors shall enjoy the rights specified in this Law in relation to their literary or artistic works.

The protection resulting from the rights specified in the previous paragraph (hereinafter “protection”) shall begin as soon as the work is created, even if the work is not fixed on a physical media.

Works
Article 3

This Law shall apply to the literary and artistic works (hereinafter “works”) which are original intellectual creations in the literary and artistic field, such as:

- (a) works expressed in writing;
- (b) computer programs;
- (c) lectures, addresses, sermons and other works consisting of words or expressed orally;
- (d) musical works, irrespective of whether they contain accompanying texts;
- (e) dramatic and dramatico-musical works;
- (f) choreographic works and mimed works;
- (g) audiovisual works including cinematographic works and videograms;
- (h) works of fine art, including drawings, paintings, engravings, lithographs, printing on leather and all other works of fine art;
- (i) works of architecture;
- (j) photographic works;
- (k) works of applied art;
- (l) illustrations, maps, plans, sketches and three-dimensional works relating to geography, topography, architecture or science;
- (m) expressions of folklore and works inspired by folklore;
- (n) drawings of garment industry designs.

Protection shall be independent of the mode or form of expression, quality and aim of the work.

Protection of the Title of the Work
Article 4

Provided that it is original, the title of a work shall be protected in the same way as the work itself.

Derived Works and Collections
Article 5

The following shall also be protected as works and shall enjoy the same protection:

(a) translations, adaptations, musical arrangements and other transformations of works and expressions of folklore;

(b) collections of works, expressions of folklore or of simple facts or data, such as encyclopædias, anthologies and databases, irrespective of whether they are reproduced on a machine-usable carrier or in any other form which, through the choice, coordination or arrangement of the subjects, constitute intellectual creations. The protection of the works referred to in subparagraph (a) should not be prejudicial to the protection of the pre-existing works used to produce these works.

Ancient Manuscripts
Article 6

Under this Law, protection shall be granted to the publication of the ancient manuscripts held in public libraries or the filings of public or private archives, without, however, the author of this publication being able to oppose the same manuscripts being republished according to the original text.

Protection of Expressions of Folklore
Article 7

(1) Expressions of folklore shall be protected for the following uses, where those uses have a commercial aim or lie outside the conventional or customary framework:

(a) reproduction;

(b) communication to the public through representation, performance, broadcasting or cable transmission, or any other means;

(c) adaptation, translation or any other modification;

(d) fixation of expressions of folklore.

(2) The rights granted in paragraph (1) shall not apply when the acts referred to in this paragraph relate to:

(a) the use made by a natural person solely for personal reasons;

(b) the use of short extracts for the purposes of reporting current events, to the extent justified by the object of the report;

(c) use solely for direct teaching or scientific research purposes;

(d) the cases where, under Chapter IV of Part I, a work can be used without the authorization of the author or rights' owners.

(3) In all printed publications, and in relation to any public communication of an identifiable expression of folklore, the source of this expression of folklore shall be indicated in an appropriate manner and in accordance with correct usage, by mentioning the name of the community or locality from which the expression of folklore used comes.

(4) The right to authorize the acts referred to in paragraph (1) of this Article shall belong to the Moroccan Copyright Office.

(5) The sums received in relation to this Article shall be allocated for professional purposes and to cultural development.

Unprotected Works
Article 8

The protection specified by this Law shall not be extended to:

(a) official texts of a legislative, administrative or judicial nature, nor to their official translations;

(b) current events;

(c) ideas, processes, systems, operating methods, concepts, principles, discoveries or simple data, even if these are stated, described, explained, illustrated or incorporated in a work.

CHAPTER III
Protected Rights
Moral Rights
Article 9

Independently of his economic rights and even after the transfer of those rights, the author of a work shall be entitled to:

(a) claim the paternity of his work, in particular the right to have his name displayed on the copies of his work and, to the extent possible and in the customary manner, in relation to any public use of his work;

(b) remain anonymous or use a pseudonym;

(c) oppose any distortion, destruction or other modification of his work, or any other encroachment on the same work, which might be prejudicial to his honor or reputation.

Economic Rights
Article 10

Subject to the provisions of Articles 11 to 22 below, the author of a work shall have the exclusive right to carry out, prohibit or authorize the following acts:

(a) republish and reproduce his work in any way or form whatsoever, whether permanent or temporary, including temporary storage in electronic form

(b) translate his work;

(c) prepare adaptations, arrangements or other transformations of his work;

(d) carry out or authorize the hiring or public loan of the original or copy of his audiovisual work, his work incorporated in a phonogram, computer program, database or musical work in graphical form (scores), irrespective of the owner of the original, or of the copy subject to hiring or public loan;

(e) carry out or authorize the public distribution, by sale, hiring, public loan or any other transfer of ownership or possession, of the original or copies of his work, distribution of which has not been authorized by him;

(f) perform his work in public;

(g) import copies of his work;

(h) broadcast his work;

(i) communicate his work to the public by cable or by any other means.

The hiring and loan rights specified in the fourth point of the first paragraph shall not apply to the hiring of computer programs, in cases where the program itself is not the essential aim of hiring.

Exercise of Economic Rights by Successors in Title
Article 11

The rights specified in the previous Article shall be exercised by the successors in title of the author of the work or by any other natural person or legal entity to which these rights have been accorded.

The Moroccan Copyright Office may exercise the above rights in cases where the persons cited in the previous paragraph do not exist.

CHAPTER IV
Limitation of Economic Rights
Free Reproduction for Private Purposes

Article 12

Notwithstanding the provisions of Article 10 above, and subject to those in the second paragraph of this Article, it shall be permitted, without the authorization of the author or payment of a fee, to reproduce a lawfully published work solely for the private use of the user.

The provisions of the previous paragraph shall not apply to:

(a) the reproduction of architectural works in the form of buildings or other similar constructions;

(b) the reprographic reproduction of a whole book or a musical work in graphical form (scores);

(c) the reproduction of the whole or parts of databases in digital form;

(d) the reproduction of computer programs apart from in the cases specified in Article 21 below;

(e) any other reproduction of a work which appears to hamper the normal use of the work or would unjustifiably prejudice the author's legitimate interests.

Temporary Reproduction
Article 13

Notwithstanding the provisions of Article 10 above, the temporary reproduction of a work shall be permitted provided that this reproduction:

(a) takes place in the course of a digital transmission of a work or act designed to make a work stored in digital form perceptible;

(b) is carried out by a natural person or legal entity authorized, by the copyright owner or by the law, to carry out the said transmission of the work or act designed to make it perceptible;

(c) is of an accessory nature to the transmission, takes place as part of normal use of the material and is automatically deleted without allowing the electronic recovery of the work for purposes other than those specified in paragraphs (a) and (b) of this Article.

Free Reproduction in the Form of a Citation
Article 14

Notwithstanding the provisions of Article 10 above, it shall be permitted, without the author's authorization or the payment of a fee, to cite a lawfully published work in another work, provided that the source and author's name are indicated, where this name appears in the source, and that such a citation complies with correct use and its scope does not exceed that justified by the aim to be achieved.

Free use for Education
Article 15

Notwithstanding the provisions of Article 10 above, it shall be permitted, without the author's authorization or the payment of a fee, but provided that the source and author's name are indicated, where this name appears in the source, to:

(a) use a lawfully published work as an illustration in publications, broadcasts, or sound or visual recordings intended for educational purposes;

(b) reproduce by reprographic means, for educational purposes or for examinations in educational institutions whose activities are not designed directly or indirectly to generate commercial profit, and to the extent justified by the aim to be achieved, individual articles lawfully published in a journal or periodical, short extracts of a lawfully published work or a lawfully published short work.

*Free Reprographic Reproduction by Libraries
and Archive Departments*
Article 16

Notwithstanding the provisions of Article 10 above, and without the authorization of the author or any other copyright owner, a library or archive departments whose activities are not designed directly or indirectly to generate commercial profit may produce, by means of reprographic reproduction, individual copies of a work:

(a) when the reproduced work is an article, short work, or short extracts of a written work other than computer programs, with or without illustrations, published in a collection of works or an edition of a journal or periodical, or when the aim of the reproduction is to respond to the request of a natural person;

(b) when the production of such a copy is intended to preserve it and, if necessary, (where it appears to have been lost, destroyed or rendered unusable), to replace it in a permanent collection of another library or other archive department, or to replace copies lost, destroyed or rendered unusable.

Deposit of Reproduced Works in Official Archives
Article 17

Without prejudice to the right belonging to the author to obtain equitable remuneration, reproductions constituting exceptional documentation and a copy of recordings of cultural value, may be stored in official archives designated for this purpose by the government authority responsible for cultural affairs.

A list of the reproductions and recordings referred to above shall be drawn up by joint decree of the government authority responsible for communication and that in charge of cultural affairs.

Free Use for Judicial and Administrative Purposes
Article 18

Notwithstanding the provisions of Article 10 above, it shall be permitted, without the author's authorization or the payment of a fee, to republish a work intended for judicial or administrative proceedings, to the extent justified by the aim to be achieved.

Free Use for Information Purposes
Article 19

Notwithstanding the provisions of Article 10 above, it shall be permitted, without the author's authorization or payment of a fee, but subject to the obligation to indicate the source and author's name, where this name appears in the source, to:

(a) reproduce in the press, broadcast or communicate to the public an economic, political or religious article published in journals or periodical collections of the same nature, provided that the right of reproduction, broadcasting or public communication is not expressly reserved;

(b) reproduce or make available to the public, for reporting purposes, current events by means of photography, cinematography, video or public cable broadcasting or communication, a work seen or heard during such an event, to the extent justified by the

information aim to be achieved;

(c) reproduce in the press, broadcast or communicate to the public, political speeches, lectures, addresses, sermons or other works of the same nature delivered in public, as well as speeches made during trials, to the extent justified by the aim to be achieved, whereby the authors retain the right to publish collections of these works.

*Free Use of Images of Works Permanently Located
in Public Places*
Article 20

Notwithstanding the provisions of Article 10 above, it shall be permitted, without the author's authorization or payment of a fee, to republish, broadcast or communicate to the public by cable an image of a work of architecture, a work of fine art, a photographic work, or a work of applied art which is permanently located in a place open to the public, unless the image of the work is the main subject of such a reproduction, broadcast or communication and if it is used for commercial purposes.

Free Reproduction and Adaptation of Computer Programs
Article 21

Notwithstanding the provisions of Article 10 above, the legitimate owner of a copy of a computer program may, without the owner's authorization or payment of a separate fee, produce a copy or adaptation of this program, provided that this copy or adaptation is:

(a) required for the use of the computer program for purposes for which the program has been obtained;

(b) required for archiving purposes and in order to replace the lawfully held copy in cases where the work appears to have been lost, destroyed or rendered unusable.

No copy or adaptation may be produced for purposes other than those specified in the previous two paragraphs of this Article and any copy or adaptation shall be destroyed in cases where prolonged possession of the computer program copy ceases to be lawful.

Free Temporary Recording by Broadcasting Organizations
Article 22

Notwithstanding the provisions of Article 10 above, a broadcasting organization may, without the author's authorization or payment of a separate fee, make a temporary recording, by its own means and for its own broadcasts, of a work which it has the right to broadcast.

The broadcasting organization shall destroy this recording within six months of it being produced, unless an agreement on a longer period has been reached with the author of the work thus recorded. However, in the absence of such an agreement, a single copy of this recording may be kept solely for archive storage purposes.

Free or Public Performance
Article 23

Notwithstanding the provisions of Article 10 above, it shall be permitted, without the author's authorization or payment of a fee, to perform a work publicly:

(a) during official or religious ceremonies, to the extent justified by the nature of these ceremonies;

(b) as part of the activities of an educational institution, for the staff and students of such an institution, provided the public consists solely of staff and students of the institution, or parents and supervisors, or other persons directly linked to the institution's activities.

Import for Personal Reasons
Article 24

Notwithstanding the provisions of Article 10(g) above, the import of a copy of a work by a natural person, for personal reasons, shall be permitted without the authorization of the author or of any other owner of the copyright in the work.

Chapter V
Duration of Protection
General Provisions
Article 25

Unless otherwise specified in this chapter, the economic rights in a work shall be protected during the author's lifetime and for 70 years after his death.

Moral rights shall have no time limitation, and shall be exempt from prescription, inalienable and transferable to successors in title in the case of death.

Duration of Protection for Collaborative Works
Article 26

The economic rights in a collaborative work shall be protected during the lifetime of the last surviving author and for 70 years after his death.

Duration of Protection for Anonymous and Pseudonymous Works
Article 27

The economic rights in a work published anonymously or under a pseudonym shall be protected until the end of a 70-year period from the end of the calendar year when such a work was lawfully published for the first time or, where such an event has not occurred in the 50 years since the work was produced, 70 years from the end of the calendar year when such a work was made available to the public or, where this has not occurred in the 50 years since the production of this work, 70 years from the end of the calendar year of such production.

If, prior to the expiry of said period, the identity of the author is revealed unambiguously, the provisions of Article 25 or 26 above, shall apply.

Duration of Protection for Collective and Audiovisual Works
Article 28

The economic rights in a collective or audiovisual work shall be protected for a period of 70 years from the end of the calendar year when such a work was lawfully published for the first time or, where such an event has not occurred in the 50 years since the work was published, 70 years from the end of the calendar year when such a work was made available to the

public or, where this has not occurred in the 70 years since the production of the work, 70 years from the end of the calendar year of such production.

Duration of Protection for Works of Applied Art
Article 29

The duration of protection of works of applied art shall be 70 years from the end of the calendar year when such a work was lawfully published for the first time, or where this has not occurred in the 50 years since the creation of the work, 70 years from the end of the calendar year of creation of such a work.

Calculation of Deadlines
Article 30

In this chapter, any deadline shall expire at the end of the calendar year during which it would normally lapse.

CHAPTER VI
Ownership of Rights
General Provisions
Article 31

The author of a work shall be the first owner of the moral and economic rights in his work.
Ownership of the Rights in Collaborative Works
Article 32

The co-authors of a collaborative work shall be the first joint owners of the moral and economic rights in this work. However, if a collaborative work can be divided into independent parts (i.e. if the parts of this work can be reproduced, performed or otherwise used separately), the joint authors may enjoy independent rights in these parts, since they are the joint owners of the rights of the collaborative work considered to be a whole unit.

Ownership of the Rights in Collective Works
Article 33

The first owner of the moral and economic rights in a collective work shall be the natural person or legal entity, at the initiative and under the responsibility of which the work has been created in his name.

Ownership of the Rights in Composite Works
Article 34

The composite work shall be the property of the author who has produced it, subject to the rights of the author of the pre-existing work.

*Ownership of the Rights in Works Created as Part
of an Employment Contract*
Article 35

In the case of a work created by an author on behalf of a natural person or legal entity (hereinafter "employer") as part of an employment contract and his employment, unless otherwise specified in the contract, the first owner of the moral and economic rights shall be the author, but the economic rights in this work shall be considered to have been transferred to the employer to the extent justified by the employer's usual activities at the time the work is created.

Ownership of the Rights in Audiovisual Works
Article 36

In the case of an audiovisual work, the first owners of the moral and economic rights shall be the joint authors of this work (such as the director, scriptwriter and music composer). The authors of pre-existing works adapted or used for audiovisual works shall be considered to have been assimilated to the joint authors.

Unless otherwise stipulated, the contract concluded between the producer of an audiovisual work and the joint authors of this work—other than the authors of the musical works included therein—as regards the contributions of the joint authors to the production of this work shall transfer to the producer the economic rights of the joint authors in the contributions. However, unless otherwise stipulated in the contract, the joint authors shall retain their economic rights in other uses of their contributions insofar as these contributions can be used separately from the audiovisual work.

Remuneration for the Joint Authors of an Audiovisual Work
Article 37

Remuneration for the joint authors of an audiovisual work shall be determined according to the procedures for its use at the time the production contract is concluded or when the work is used.

In cases where the audiovisual work has been disclosed in a place accessible to the public or has been communicated, irrespective of the means, in return for payment of a fee, or by means of hiring with a view to private use, the joint authors shall be entitled to remuneration, in proportion to the fees paid by the user.

If the disclosure of the work is free of charge, the remuneration paid in this case shall be determined on the basis of a flat rate. The Moroccan Copyright Office shall determine the percentages of the proportional flat-rate remuneration, based on the procedures for use referred to in the first and second paragraphs above.

Presumption of Ownership and Existence of Copyright
Article 38

In civil, administrative or criminal proceedings, the person whose name is indicated in the usual manner as being the author, performer, producer of a phonogram or publisher, shall, in the absence of proof to the contrary, be considered to be the owner of the rights and shall therefore be entitled to institute legal proceedings. In the absence of proof to the contrary, the copyright or related rights shall exist for the work, performance or phonogram.

In the case of an anonymous work, or a work created using a pseudonym—apart from where the pseudonym leaves no doubt as to the author's identity—the publisher whose name appears on the work shall, in the absence of proof to the contrary, be considered to represent the author and, in this capacity, to be entitled to protect and ensure respect for the author's rights. This paragraph shall cease to apply when the author discloses his identity and provides evidence of his capacity.

CHAPTER VII
Transfer of Rights and Licenses
Transfer of Rights
Article 39

Economic rights shall be transferable between living people and by effect of the law as a result of death.

Moral rights shall not be transferable between living people but by effect of the law as a result of death.

The complete or partial transfer of the copyright in a work inspired by folklore, or the exclusive license relating to such a work, shall be valid only if it has received the approval of the Moroccan Copyright Office.

The global transfer of future works shall be null and void.

Licenses
Article 40

The author of a work may grant licenses to other persons for the purpose of acts covered by his economic rights. These licenses may be exclusive or non-exclusive.

A non-exclusive license shall authorize its owner to carry out, in the permitted manner, the acts to which it relates at the same time as the author and other owners of non-exclusive licenses. An exclusive license shall authorize its owner, to the exclusion of all others including the author, to carry out, in the permitted manner, the acts to which it relates.

Form of Transfer and License Contracts
Article 41

Unless otherwise specified, the economic rights transfer or license contracts for the performance of the acts covered by the economic rights shall be drawn up in writing.

Extension of Transfers and Licenses
Article 42

Transfers of economic rights and licenses for the performance of acts covered by such rights may be limited to certain specific rights, as well as in relation to the aims, duration, territorial scope and extent or means of use.

The failure to mention the territorial scope for which economic rights are transferred or the license granted to carry out acts covered by such rights shall be considered to limit the transfer or license to the country in which either one or the other is granted.

The failure to mention the scope or means of use for which economic rights are transferred or the license granted for the performance of acts covered by economic rights shall be considered to limit the transfer or license to the scope and means of use necessary for the aims envisaged at the time the transfer or license is granted.

*Alienation of Originals or Copies of Works, Transfer and License
Concerning Copyright in these Works*
Article 43

An author who transfers by alienation the original or a copy of his work shall be considered, unless otherwise stipulated in the contract, not to have assigned any of his economic rights, nor to have granted any license for the performance of the acts covered by economic rights. Notwithstanding the previous paragraph, the legitimate acquirer of an original or copy of a work shall, unless otherwise stipulated in the contract, be entitled to present the original or copy directly to the public.

The right specified in the second paragraph shall not be extended to persons who have taken possession of originals or copies of a work by means of hiring or any other means, without having acquired ownership thereof.

CHAPTER VIII
Provisions Specific to the Publishing Contract
Definition
Article 44

The publishing contract shall be the contract by means of which the author of a work or his successors in title shall transfer, subject to specific conditions, to a person known as the “publisher”, the right to produce or to have produced a number of copies of the work, whereby the publisher shall cover the costs of publication and distribution.

General Provisions
Article 45

Subject to being declared null and void, the contract shall be drafted in writing and shall provide, for the benefit of the author or his successors in title, remuneration proportionate to the products used or flat rate remuneration.

Subject to the provisions governing the contracts concluded between minors and prohibited persons, personal consent shall be mandatory, even where this relates to a legally incapable author, unless the incapacity is physical in nature.

The provisions of the second paragraph of this Article shall not be applicable when the publishing contract is endorsed by the author’s successors in title.

Obligations of the Author
Article 46

The author shall guarantee to the publisher:

— the peaceful and, unless otherwise specified, exclusive exercise of the transferred right;

— that this right is respected and defended against any infringement that might be made against it;

— the opportunity to produce and distribute the copies of the work.

Unless otherwise stipulated, the subject of the publication provided by the author shall

remain his property. The publisher shall be responsible for it for a period of one year after the production has been completed.

Obligations of the Publisher
Article 47

The publisher shall be obliged to:

- carry out the production or have this done, according to the conditions specified in the contract;
- make no change to the work, without the written authorization of the author;
- to display on each of the copies the name, pseudonym or mark of the author, unless otherwise stipulated;
- supply any proof designed to establish the accuracy of his accounts.

The author may require, at least once a year, the production by the publisher of a report mentioning:

- (a) the number of copies produced during the financial year with details of the date and size of the print runs;
- (b) the number of copies in stock;
- (c) the number of copies sold by the publisher and the number unused or destroyed inadvertently or in cases of *force majeure*;
- (d) the amount of the fees due and, where applicable, that of the fees paid to the author;
- (e) the sale price charged.

Remuneration
Article 48

The contract may provide either for remuneration in proportion to the products used or for flat-rate remuneration.

As regards bookshop publishing, the remuneration may be a flat rate for the first edition, with the author's formal agreement, in the following cases:

- (1) scientific or technical works;
- (2) anthologies and encyclopædias;
- (3) prefaces, annotations, introductions, presentations;
- (4) illustrations of a work;
- (5) limited deluxe editions.

For works published in journals and periodical collections of any kind and by press agencies, the remuneration for the author bound to the information company by a work or service hiring contract may also be set at a flat rate.

Cases of Termination of the Publishing Contract
Article 49

In cases where the publisher becomes insolvent or is the subject of a bankruptcy adjudication, the publishing contract shall not be terminated.
If the receiver or the party responsible for liquidation continues the venture subject to the conditions of the Code of Commerce, he shall assume the rights and obligations of the publisher.

If the business capital has been transferred at the request of the receiver or the party responsible for liquidation, subject to the terms of the Code of Commerce, the acquirer shall be subrogated to the assignor.

If, within a period of one year from the date of the insolvency judgment, the venture has not been continued and the business capital has not been transferred, the author may request the contract to be terminated.

The publishing contract shall be automatically terminated when, owing to a failure to sell or for any other reason, the publisher destroys all copies.

The contract may be terminated by the author independently of the cases provided for by the common law when, on a formal demand granting him a suitable deadline, the publisher has not published the work or, where a print run has been sold out, has not republished the work.

An edition shall be considered to have been sold out if two requests for delivery of copies addressed to the publisher have not been satisfied within three months.

If the work is incomplete at the time of the author's death, the contract shall be settled as regards the incomplete part of the work, except in the case of agreement between the publisher and the author's successors in title.

PART II
RIGHTS OF PERFORMERS, PRODUCERS OF PHONOGRAMS
AND BROADCASTING ORGANIZATIONS (RELATED RIGHTS)
CHAPTER I
Rights of Authorization
Rights of Authorization of Performers
Article 50

Subject to the provisions of Article 54 to 56, the performer shall have the exclusive right to carry out or authorize the following acts:

(a) the broadcast of his performance, apart from when the broadcast is made from a fixation of the performance other than a fixation made under Article 55 or when a rebroadcast is made, as authorized by the broadcasting organization which first shows the performance;

(b) the communication to the public of his performance, apart from when this communication is made from a broadcast of the performance;

(c) the performance which has not yet been fixed;

(d) the reproduction of a fixation of his performance in any way or form whatsoever, whether permanent or temporary, including temporary storage in electronic form;

(e) the first distribution to the public of a fixation of his performance, through sale or any other transfer of ownership;

(f) the public hiring or loan of his performance;

(g) the public provision, by wire(less) means, of his performance fixed on a phonogram, so that access is provided for all persons from the place and at the time of their individual choosing;

(h) the import of a fixation of his performance.

In the absence of agreement to the contrary:

(a) the authorization to broadcast does not imply the authorization to allow other broadcasting organizations to show the performance;

(b) the authorization to broadcast does not imply the authorization to fix the performance;

(c) the authorization to broadcast and to fix the performance does not imply the authorization to reproduce the fixation;

(d) the authorization to fix the performance and to reproduce this fixation does not imply the authorization to broadcast the performance from the fixation or its reproductions.

Irrespective of his economic rights, and even after these rights have been transferred, the performer shall retain the right, as regards his live sound performances fixed on phonograms, to request to be mentioned as such, apart from when the method of use of the performance dictates that such a mention is omitted, and to oppose any distortion, destruction or other modification of his performances, that may be prejudicial to his reputation. The provisions of the second paragraph of Article 25 and the second paragraph of Article 39 of this Law shall apply to the moral rights of performers.

Rights of Authorization of Phonogram Producers
Article 51

Subject to the provisions of Articles 54 to 56, the phonogram producer shall have the exclusive right to carry out or authorize the following acts:

(a) the direct or indirect reproduction of his phonogram in any way or form whatsoever, whether permanent or temporary, including temporary storage in electronic form;

(b) the import of copies of his phonogram with a view to their distribution to the public;

(c) the public provision, through sale or by any other means of ownership transfer, of copies of his phonogram not subject to distribution authorized by the producer;

(d) the public hiring or loan of copies of his phonogram;

(e) the public provision, by wire(less) means, of his phonogram so that access is provided for all persons from the place and at the time of their individual choosing;

(f) the communication to the public of his phonogram;

(g) the broadcasting of his phonogram.

Rights of Authorization of Broadcasting Organizations
Article 52

Subject to the provisions of Articles 54 to 56, the broadcasting organization shall have the exclusive right to carry out or authorize the following acts:

(a) the rebroadcasting of its broadcasts;

(b) the fixation of its broadcasts;

- (c) the reproduction of a fixation of its broadcasts;
- (d) the communication to the public of its television broadcasts.

CHAPTER II
Equitable Remuneration for the Use of Phonograms
*Equitable Remuneration for Broadcasting or
Communication to the Public*

Article 53

When a phonogram published for commercial purposes, or a reproduction of this phonogram, is used directly for public broadcasting or communication, not including any interactive transmissions, equitable and single remuneration, intended both for the performers and/or the producers of phonograms, shall be paid by the user.

The sum received for the use of a phonogram shall be divided half-and-half between the performers and the phonogram producers.

CHAPTER III
Free Uses
General Provisions
Article 54

Notwithstanding the provisions of Articles 50 to 53, the following acts shall be permitted without the authorization of the successors in title mentioned in these articles and without the payment of a fee:

- (a) reporting of current events, provided that use is made only of short fragments of a performance, phonogram or broadcast;
- (b) reproduction solely for the purposes of scientific research;
- (c) reproduction as part of teaching activities, apart from when the performances or phonograms have been published as material intended for educational purposes;
- (d) citation, as short fragments, of a performance, phonogram or broadcast, provided that such citations are properly used and are justified by their information aim;
- (e) all other uses representing exceptions in relation to protected works pursuant to the provisions of this Law.

Free Use of Performances
Article 55

As soon as the performers have authorized the incorporation of their performance in a fixation of images, or of images and sounds, the provisions of Article 50 shall cease to be applicable.

Free Use by Broadcasting Organizations
Article 56

The authorizations required under Articles 50 to 52 to make fixations of performances and broadcasts, reproduce such fixations and phonograms published for commercial purposes shall not be required when the fixation or reproduction is made by a broadcasting organization using its own means and for its own broadcasts, provided that:

(a) for each of the broadcasts of a performance fixation or its reproductions, made subject to this paragraph, the broadcasting organization is entitled to broadcast the performance in question;

(b) for each of the broadcasts of a broadcast fixation, or a reproduction of such a fixation, made subject to this paragraph, the broadcasting organization is entitled to make the broadcast;

(c) for any fixation made subject to this paragraph or its reproductions, the fixation and its reproductions are destroyed within a period of the same duration as that applied to the fixations and reproductions of works protected by copyright under Article 22 of this Law, apart from a single copy which may be retained solely for archive storage purposes.

CHAPTER IV
Duration of Protection
Duration of Protection for Performances
Article 57

The duration of protection to be granted to performances under this Law shall be a period of 70 years starting from the end of the calendar year when the performance was lawfully published for the first time or, where such publication has not occurred in the 50 years since the work was created, 70 years from the end of the calendar year of such creation.

Duration of Protection for Phonograms
Article 58

The duration of protection to be granted to phonograms under this Law shall be a period of 70 years starting from the end of the calendar year when the phonogram was lawfully published for the first time or, failing such publication within a period of 50 years from the creation of the phonogram, 70 years starting from the end of the calendar year of such creation.

Duration of Protection for Broadcasts
Article 59

The duration of protection to be granted to broadcasts under this Law shall be 70 years starting from the end of the calendar year when the broadcast was lawfully published for the first time or, failing such publication within a period of 50 years from the creation of the broadcast, 70 years from the end of the calendar year of creation.

PART III
COLLECTIVE MANAGEMENT
Article 60

The protection and use of copyrights and related rights, as defined by this Law, shall be entrusted to the Moroccan Copyright Office.

Right to engage in legal proceedings
Article 60.1

The Moroccan Copyright Office shall have the right to engage in legal proceedings in order to defend the interests with which it is entrusted.

Swearing-in of agents and impounding
Article 60.2

Officials of the Moroccan Copyright Office, commissioned by the supervisory authority and sworn in under the conditions specified in the legislation currently in force regarding the swearing-in of reporting officers, shall be authorized to establish infringements of this Law.

They may, once the infringements have been established, proceed to impound the phonograms, videograms and any other usable recording medium, as well as any material used for unlawful reproduction.

Assistance of the public authorities
Article 60.3

Public authorities of all kinds shall be required to lend their assistance and support to the Moroccan Copyright Office, as well as to its officials, as part of the fulfillment of their duties.

PART IV
MEASURES, APPEALS AND PENALTIES AGAINST PIRACY
AND OTHER OFFENSES
Protective Measures
Article 61

The court with competence to hear civil cases instituted under this Law shall have the authority, subject to the provisions of the Codes of Criminal and Civil Procedure, and to the conditions it considers reasonable, to:

(a) make a judgment prohibiting the commission or ordering the cessation of the violation of any right protected under this Law;

(b) order the seizure of the copies of works or of the sound recordings suspected of having been made or imported, or being exported, without the authorization of the owner of the right protected under this Law, as well as of the packaging of these copies, the instruments that may have been used to produce them, and the documents, accounts or business papers relating to these copies.

The provisions of the Codes of Criminal and Civil Procedure relating to search and seizure shall apply to violations of rights protected under this Law.

The copyright and works not published prior to the author's death may not be seized. Only copies of the work already published may be seized.

Border measures

Article 61.1

The Customs and Excise Authority may, at the written application of an owner of copyright or related right (based on the model adopted by that Authority), suspend the release for free circulation of merchandise suspected of being counterfeit or pirated, infringing copyright and related rights.

The aforementioned application shall be supported by appropriate evidence that there is an infringement of protected rights and shall provide sufficient information that the owner of the right could reasonably be expected to know about for the suspected counterfeit or pirated merchandise to be reasonably recognizable by the Customs and Excise Authority.

The applicant and the declarant or the holder of the merchandise shall be informed, without delay, by the Customs and Excise Authority, of the suspension measure taken.

The suspension application referred to in the first paragraph above shall be valid for a period of one year or the remaining period of protection of the copyright or related rights when such a period is shorter than one year.

Article 61.2

The suspension measure referred to in Article 61.1 above shall be lifted as of right where the requestor, within 10 working days following notification of the suspension measure to the requestor, fails to prove to the Customs and Excise Authority that:

- protective measures have been ordered by the President of the Court;
- or that he has brought legal proceedings, and furnished the security set by the court, to cover contingent liability should there be no subsequent acknowledgement that counterfeiting or piracy activities have taken place.

Article 61.3

For the purposes of bringing the legal action referred to in Article 61.2 above, the applicant may obtain from the Customs and Excise Authority information relating to the names and addresses of the importer, the sender, the consignee or the holder of the merchandise and the quantity of the merchandise, notwithstanding any provisions to the contrary.

Article 61.4

If the Customs and Excise Authority establishes or suspects that imported, exported or transit merchandise is counterfeit or pirated, the Authority shall, of its own motion, suspend the release for free circulation of such merchandise. In this case, the Authority shall without delay inform the owner of the rights of the measure taken and shall communicate to him, upon his written request, the information referred to in Article 61.3 above.

The declarant or holder of the merchandise shall also be informed of this measure without delay.

The above suspension measure shall be lifted as of right where the owner of the rights, within 10 working days following the date when the Authority communicated the information to him, fails to prove to the Customs and Excise Authority that the measures or actions have been undertaken on the conditions referred to in Article 61.2 above.

Article 61.5

The merchandise for which the release for free circulation has been suspended pursuant to the provisions of Articles 61.1 to 61.4 above and that has been recognized, by a court judgment that has become final, as being counterfeit or pirated merchandise shall be destroyed, except in exceptional circumstances. It may in no way be authorized for export or be the subject of other customs procedures or systems, except in exceptional circumstances.

Article 61.6

The measure suspending the release for free circulation implemented pursuant to the provisions of Articles 61.1 to 61.5 above shall not incur the liability of the Customs and Excise Authority.

Should the merchandise not be recognized as counterfeit or pirated, the importer may apply to the court for damages for any prejudice suffered, to be paid to him by the applicant.

Article 61.7

The scope of the provisions of Articles 61.1 to 61.6 above shall not apply to merchandise of a non-commercial nature contained in the personal luggage of travelers, in small quantities, or sent in small consignments for personal and private use.

Civil Penalties

Article 62

The owner of any rights protected under this Law whose recognized right has been infringed shall be entitled to payment, by the infringer, of damages for the prejudice suffered as a consequence of the act of infringement.

The amount of damages shall be fixed in keeping with the provisions of the Civil Code, taking into account the importance of the material and moral prejudice suffered by the rightsowner, as well as the size of the infringer's profits attributable to the infringement.

The rightsowner shall have the possibility of choosing between damages actually sustained, plus any profit resulting from the prohibited activity that has not been taken into account in the calculation of those damages, or the pre-established damages of between five thousand (5,000) dirhams and twenty-five thousand (25,000) dirhams, as deemed equitable by the court to compensate for the prejudice suffered.

At the end of the civil proceedings, the court that tried the case may order the unsuccessful party to reimburse reasonable costs for legal fees incurred by the other party.

Where infringing copies exist, the court shall have the authority to order the destruction or, only in exceptional circumstances, other reasonable disposal of those copies and their packaging outside the channels of commerce in such a manner as to avoid harm to the owner of the right, unless the owner of the right requests otherwise. If an implement or device has been used to commit acts of infringement, the court shall, without any compensation or in exceptional circumstances, order their immediate destruction or other reasonable disposition outside the channels of commerce in such a manner as to minimize the risks of further infringements, including surrender to the owner of the right.

Where there is a danger that acts of infringement may be continued, the court shall expressly order that such acts no longer be committed. Furthermore, the court shall fix a sum the equivalent of at least 50 per cent of the value of the operation as damages.

Violations Committed Against Expressions of Folklore

Article 63

Whomsoever uses, without the authorization of the Moroccan Copyright Office, an expression of folklore in a way that is not permitted by Article 7(1) is committing an offense and shall be liable for damages, injunctions or any other form of reparation that the court may consider appropriate in the case in question.

Criminal Sanctions
Article 64

Any willful infringement of the following committed unlawfully and in any way, for the purposes of commercial exploitation, shall be punished by imprisonment for a period of between two and six months and a fine of between ten thousand (10,000) and one hundred thousand (100,000) dirhams, or just one of these two penalties:

- the rights of performers mentioned in Article 50;
- the rights of phonogram producers mentioned in Article 51;
- the rights of broadcasting organizations mentioned in Article 52.

Willful infringements for the purposes of commercial exploitation shall mean:

- any willful infringement of copyright or related rights which is not motivated, either directly or indirectly, by financial gain;
- any willful infringement committed with the aim of obtaining commercial advantage or private financial gain.

The same penalties specified in the first paragraph above, as well as additional measures and sanctions mentioned in Article 64.3 below, shall be applied to:

- whoever imports or exports copies made in violation of the provisions of this Law;
- whoever unlawfully carries out one of the acts mentioned in Article 7(1) of this Law;
- whoever commits one of the acts mentioned in Article 65 of this Law;
- whoever has been found legally liable under Article 65.4 of this Law.

Article 64.1

In the case of persistent infringement, the penalties specified in Article 64 above shall be doubled.

Article 64.2

If the perpetrator of one of the acts mentioned in Article 64 commits a new act that constitutes an infringement of copyright or related rights less than five years after a first judgment that has become final, he shall be punished by a term of imprisonment of between one and four years and a fine of between sixty thousand (60,000) dirhams and six hundred thousand (600,000) dirhams, or just one of these penalties.

Article 64.3

In cases of infringement of the provisions of this Law, the competent court may order the following preventive measures and subsidiary penalties, provided that a prior order or judgment on the same subject has not already been issued against the same parties:

1. the impounding of all copies made in infringement of the provisions of this Law, the packaging, the materials and equipment that could be used to commit the infringement, the assets linked to the infringement and the documents, accounts or business papers referring to such copies;

2. the confiscation of any assets with which the link with the unlawful activity may be established and, except in exceptional circumstances, all the copies made in infringement of the provisions of this Law and their packaging, materials and equipment used to manufacture them, without any compensation of any kind for the defendant;
3. the destruction, except in exceptional circumstances, of these copies and their packaging, materials and equipment used to manufacture them or, in exceptional cases, their disposal in another reasonable way, outside commercial circuits so as to reduce to a minimum the risks of further infringements, and all of the above without any compensation of any kind for the defendant;
4. the permanent or temporary closure of the establishment used by the perpetrator of the infringement or his accomplices;
5. the publication of the condemnatory sentence in one or more newspapers designated by the competent court, at the expense of the person convicted, although the costs of this publication must not exceed the maximum of the applicable fine.

*Measures, Reparations and Penalties in Cases of Violation
of Technical Means and Distortion of Information
on the Rights Regime
Article 65*

Without prejudice to the provisions of Law No. 77-03 on audiovisual communication, the following acts shall be considered unlawful and, for the purposes of Articles 61 to 64 of this Law, shall be assimilated to infringements of the rights of authors, performers and phonogram producers:

(a) the manufacture, import, export, assembly, modification, sale or hiring of a device, system or means specially designed or adapted to render inoperable any device, system or means used to prevent or restrict the reproduction of a work, or in order to diminish the quality of the copies produced;

(b) the manufacture, import, export, assembly, modification, sale or hiring of a device, system or means designed or adapted in the knowledge or having good reason to believe that such a device, system or means would allow or facilitate the decoding of coded program-carrying signals without the authorization of the legitimate distributor;

(c) the reception and redistribution of program-carrying signals that were originally coded, in the knowledge that they have been decoded without the authorization of the legitimate distributor;

(d) the circumvention, suppression or restriction of any effective technological measure;

(e) the manufacture, import, sale, making available to the public or distribution of any device, unit, service or means used, advertised or promoted as, or essentially designed or produced with the aim of, allowing or assisting in the circumvention or disabling or limiting of any effective technological measure;

(f) the removal or alteration of any information on the rights regime without authority;

(g) the distribution or import for distribution of information on the rights regime in the knowledge that such information has been deleted or altered without authorization;

(h) the distribution or import for distribution, broadcast, communication to the public or making available to the public, without authorization, of works, performances, phonograms or broadcasts, in the knowledge that electronic information on the rights regime has been deleted or altered without authorization.

As used in this Article, the expression “effective technological measure” shall mean any technological measure, device or component that, in its normal use, controls access to a work, performance, phonogram or other subject of protection, or protects any copyright or related rights.

As used in this Article, the expression "rights management information" shall mean information that identifies the author, the work, the performer or the performance, the phonogram producer, the phonogram, the broadcasting agency, the broadcast or the owner of any right under this Law, or any information about the terms and conditions of use of the work and other productions referred to in this Law, and any numbers or codes that represent such information, when any of these items of information is attached to a copy of a work, a fixed performance, a copy of a phonogram or a fixed broadcast program, or appears in connection with the broadcast, communication to the public or the making available to the public of a work, fixed performance, phonogram or broadcast program.

Pursuant to Articles 61 to 64, any device or system or means mentioned in this Article and any copy from which information on the rights regime has been removed, or in which such information has been altered, shall be assimilated to infringing copies of works.

Specific provisions

Article 65.1

The following non-profit entities: libraries, archive services, educational institutions or public broadcasting organizations shall not be subject to the provisions of Article 64 for violations mentioned in Article 65, paragraphs (a), (d), (e), (f), (g) or (h).

Non-profit entities covered in the previous paragraph may not be ordered to pay damages under Article 62 for violations mentioned in Article 65, paragraphs (a), (d), (e), (g), (h) or (i) if they provide proof that they were not aware or had no reason to think that their acts constituted a prohibited activity.

Article 65.2

Any infringement of the rights of an owner of copyright or related rights may be the subject of proceedings ordered by right by the Public Prosecutor's Office without any need for a private party or rightsowner to bring a complaint.

PART IV bis

Liability of service providers

Article 65.3

For the application of the provisions of Article 65.4, and for the purposes of the duties referred to in Article 65.5(B) to (D), “service provider” shall mean a provider or operator of

facilities for online services or for access to networks, including a provider of transmission, routing or connection for digital communications online, with no alteration of the content, between the points specified by the user and of his choice.

For the purposes of the duty referred to in Article 65.5(A), “service provider” shall mean only a provider of transmission, routing or connection for digital communications online, with no alteration of the content, between the points specified by the user and of his choice.

Article 65.4

- (A) Any service provider who, being aware of or having good reason to suspect any violation of copyright or related rights committed by another person, shall have promoted, encouraged, caused or contributed significantly to this violation, and shall be liable in the civil courts for this unlawful activity.
- (B) Any service provider who has deliberately promoted, encouraged, caused or contributed significantly to any violation of copyright or related rights committed by another person, shall be liable in the criminal courts for this unlawful activity in accordance with the provisions of this Law.
- (C) Any service provider with the right and ability to supervise or control infringements of copyright or related rights committed by another person, and having a direct financial interest in such activity, shall be liable in the civil courts for such unlawful activity.
- (D) Any service provider who deliberately supervises or controls any infringements of copyright or related rights committed by another person, and who has a direct financial interest in such activity, shall be liable in the criminal courts for such unlawful activity in accordance with the provisions of this Law.
- (E) Any action referred to in paragraphs (A) to (D) above and taken against the service provider shall be initiated in accordance with the Code of Civil Procedure, or the Code of Criminal Procedure. Furthermore, it shall no longer be necessary to name any other person in order to institute legal proceedings against a service provider, and it shall not be necessary to obtain a prior court ruling in separate proceedings determining the liability of another person.

Article 65.5

If a service provider fulfills the conditions defined in Articles 65.5 to 65.11, it shall be able to benefit from the limitations on liability specified in Articles 65.12 and 65.14 for infringements of copyright or related rights that it did not control, initiate or direct, and that took place by means of systems or networks controlled or exploited by it or in its name, in relation to the following functions:

- (A) the transmission or routing of the material or the supply of connections for that material, without modifying its content, or the intermediate and temporary storage of said material in the course of these operations;
- (B) automatic caching
- (C) storage on request by a user residing on a system or network controlled or exploited by or for the service provider; and

- (D) the sending of users, or the setting-up of a link, to an online location by means of information localization tools, including hypertext links and directories.

Article 65.6

The limitations to liability contained in Articles 65.12 and 65.14 only apply when service providers do not take the initiative with regard to the transmission of the material and neither select the material nor its recipients, unless a function described in Article 65.5(D) intrinsically entails a form of selection.

Article 65.7

The issue of whether service providers shall be eligible to benefit from the limitations contained in Articles 65.12 and 65.14 concerning each of the functions contained in Article 65.5(A) to (D) shall be examined separately from that of their eligibility concerning each of the other functions, in accordance with the conditions of eligibility contained in Articles 65.8 to 65.11.

Article 65.8

As to the functions mentioned in Article 65.5 (B), the service provider shall not benefit from the limitations on liability stated in Articles 65.12 and 65.14 until such time as:

- (a) it has limited access to the material that has been cached to the users of its system or network who meet the user-specific conditions for access to said material;
- (b) it has conformed to the rules concerning refreshing, reloading or any other up-dating of the cached material, when these rules are stated by the person putting the material online, in accordance with a generally-accepted data communications protocol for the system or network;
- (c) it no longer interferes with the standard technical measures used on the original site to obtain information on the use of the material and does not modify the content of that material in its subsequent transmission to the users; and
- (d) it acts without delay, on receipt of effective notice relating to an allegation of infringement of copyright or related rights in accordance with Article 65.13, either withdrawing the cached material or disabling access to the material withdrawn from the site of origin.

Article 65.9

As to the functions mentioned in Article 65.5(C) and (D), the service provider shall not benefit from the limitations on liability stated in Articles 65.12 and 65.14 unless:

- (a) it does not directly enjoy financial gain attributable to the activity infringing copyright or related rights, under circumstances in which it has the right and ability to control that activity;
- (b) it acts without delay to withdraw the material hosted on its system or network, or to disable access to that material on becoming aware of infringement of copyright or related rights, or of facts or circumstances which indicate that copyright or related rights have been infringed, in particular as a result of actual formal notice of allegations of infringement of copyright or related rights in accordance with Article

65.13; and

- (c) it publicly appoints a representative responsible for receiving the formal notices mentioned in paragraph (b) above. A representative shall be publicly appointed to receive notices on behalf of a service provider if his name, postal address, e-mail address and telephone number are displayed to the public in an accessible fashion on the Internet site of the service provider, as well as in a register accessible to the public by Internet.

Article 65.10

The service provider shall not benefit from the limitations on liability stated in Articles 65.12 and 65.14 unless:

- (a) it makes provision for and implements a cancellation procedure, under appropriate conditions, for the accounts of repeat offenders who have infringed copyright or related rights; and
- (b) it conforms to and does not interfere with the standard technical measures for protection and identification of the material protected by the copyright or related rights, drawn up following agreement between the holders of the copyright and related rights and the service providers. These measures must be available under reasonable and non-discriminatory conditions and shall not entail substantial costs for the service providers or substantial constraints on their system or network.

Article 65.11

The issue of whether the service provider is eligible to benefit from the limitations on liability stated in Articles 65.12 and 65.14 cannot be conditional on the service provider guaranteeing monitoring of its service or the active search for indications of activities infringing copyright or related rights, except within the limits of the technical measures contained in Article 65.10.

Article 65.12

(A) Should the service provider be permitted to benefit from the limitations relating to the function mentioned in Article 65.5 (A), the courts shall be able to order either the cancellation of the accounts referred to or the implementation of reasonable measures to block access to an online location located abroad.

(B) Should the service provider be permitted to benefit from the limitations relating to the functions mentioned in Article 65.5(B) to (D), the courts shall be able to order the withdrawal of the material infringing copyright or related rights, or the disabling of access to said material, the cancellation of the accounts referred to, and any other measures that the courts might consider necessary, on the condition that the measures selected from a range of similarly effective measures are those which pose the least constraint on the service provider.

(C) the measures stated in (A) and (B) above shall be ordered taking due account of the relative constraint imposed upon the service provider and the damage caused to the owner of copyright or related rights, the technical feasibility and effectiveness of the measure, and bearing in mind the availability of similarly effective methods of execution which pose less of a constraint.

(D) With the exception of decrees ensuring the preservation of evidence, or those which have no significant negative effect on the exploitation of the service provider's

communications network, the measures provided for shall only be available should the service provider have been notified in the form and under the conditions provided for under the Code of Civil Procedure.

Article 65.13

The effective notice described in Articles 65.8(d) and 65.9(b) shall mean a written communication duly signed, containing within it the following:

- (1) the identity, address, telephone number and e-mail address of the owner of the copyright or related rights or his representative;
- (2) information allowing the service provider to identify the material protected by the copyright or related rights which have allegedly been infringed. Should multiple materials be present on a single online site on a system or network controlled or exploited by or for the service provider, they shall be covered by a single formal notice, a representative list of those materials on that site may be provided;
- (3) information allowing the service provider to identify and locate the material hosted on a system or network controlled or exploited by or for it and which allegedly constitutes an infringement of copyright or related rights and which must be withdrawn or to which access must be disabled;
- (4) a signed declaration stating that the information contained in the notice is accurate;
- (5) a signed declaration from the plaintiff stating that the material referred to in the complaint is used without the authorization either of the owner of the copyright or related rights or his representative.
- (6) a declaration made by the plaintiff, stating that he is the owner of a protected right allegedly the subject of infringement, or that he is authorized to act on behalf of the owner of that right.

The notice may be transmitted by e-mail, with an electronic signature fulfilling the requirement for a signature.

In the case of notices relating to an information localization tool in accordance with Article 65.5(D), the information provided must be sufficient to allow the service provider to locate the reference or link located in a system or network controlled or exploited by or for it; however, in the case of a notice relating to a substantial number of references or links placed on a single online site on a system or network controlled or exploited by or for the service provider, a representative list of those references or links placed on the site may be provided.

Article 65.14

- (A) If the service provider withdraws the material or disables access to that material in good faith, on the basis of an alleged or apparent infringement of copyright or related rights, it shall be exonerated of any liability in the event of subsequent claims, provided that it promptly takes reasonable measures:
- to inform the person putting the material on line on its system or network of its actions; and
 - if the person issues a response to an actual notice and is prosecuted in court for infringement of copyright or related rights, to put the material back up online unless the person who issued the initial actual notice brings a challenge before the courts within a reasonable time period.

(B) Any damage resulting from the acts carried out in good faith by the service provider, on the basis of false information contained in the notice given or in a response to notice, shall incur the liability of the party that issued such false information.

(C) The “response to notice” issued by a subscriber whose material has been withdrawn or disabled inadvertently or because of mistaken identity must be written, duly signed by that subscriber and contain within it the following:

- (1) the identity, address and telephone number of the subscriber;
- (2) the identification of the material which has been withdrawn or for which access has been disabled;
- (3) the location where the material appeared prior to its withdrawal or the disabling of access;
- (4) a signed declaration attesting to the accuracy of the information contained in the response to the notice;
- (5) a statement in which the subscriber agrees to grant competence to the court of his place of domicile should he reside on the national territory, or to another court competent with regard to the domicile of the service provider when said service provider is domiciled outside the national territory;
- (6) a signed statement from the subscriber attesting in good faith that he believes that the material was withdrawn or disabled inadvertently or owing to mistaken identity.

The response to notice may be forwarded by e-mail and the electronic signature shall satisfy the requirement for a signature.

Article 65.15

The Moroccan Copyright Office shall demand, upon written request of an owner of copyright or related rights or his representative, or a service provider receiving notice, to identify any perpetrator of an alleged infringement of copyright or related rights, and to communicate as so on as possible and where possible sufficient information about him to be forwarded to the rightsowner.

PART V **SCOPE OF APPLICATION OF THE LAW** *Application to Literary and Artistic Works* Article 66

The provisions of this Law relating to the protection of literary and artistic works shall apply to:

- (a) works whose author or any other original copyright owner is a national of the Kingdom of Morocco or has his habitual residence or headquarters in the Kingdom of Morocco;
- (b) audiovisual works whose producer is a national of the Kingdom of Morocco or has his habitual residence or headquarters in the Kingdom of Morocco;

(c) works published for the first time in the Kingdom of Morocco, or published for the first time in another country and also published in the Kingdom of Morocco within a period of 30 days;

(d) works of architecture erected in the Kingdom of Morocco or works of fine art forming part of a building located in the Kingdom of Morocco.

The provisions of this Law relating to the protection of literary and artistic works shall apply to works which are entitled to protection under an international treaty to which the Kingdom of Morocco is party.

*Application to the Rights of Performers, Producers of Phonograms
and Broadcasting Organizations*
Article 67

The provisions of this Law relating to the protection of performers shall apply to performances when:

- the performer is a national of the Kingdom of Morocco;
- the performance takes place on the territory of the Kingdom of Morocco;
- the performance is fixed in a phonogram protected under this Law; or
- the performance which has not been fixed in a phonogram is incorporated in a broadcast protected under this Law.

The provisions of this Law relating to the protection of phonogram producers shall apply to phonograms when:

- the producer is a national of the Kingdom of Morocco; or
- the first fixation of the sounds has been made in the Kingdom of Morocco;
- the phonogram has been produced for the first time in the Kingdom of Morocco.

The provisions of this Law relating to the protection of broadcasting organizations shall apply to broadcasts when:

- the head office of the organization is located on the territory of the Kingdom of Morocco; or
- the broadcast has been transmitted from a station located on the territory of the Kingdom of Morocco.

The provisions of this Law shall also apply to the performances, phonograms and broadcasts protected under the international conventions to which the Kingdom of Morocco is a party.

Applicability of International Conventions
Article 68

The provisions of an international treaty concerning copyright and related rights, to which the Kingdom of Morocco is a party, shall apply in the cases specified in this Law. In the case of a discrepancy between the provisions of this Law and those of an international treaty to which the Kingdom of Morocco is a party, the provisions of the international treaty shall apply.

PART VI
MISCELLANEOUS AND FINAL PROVISIONS
Transitional Provisions
Article 69

The provisions of this Law shall also apply to the works which have been created, performances which have taken place or have been fixed, the phonograms which have been fixed and the broadcasts that have been made prior to the entry into force of this Law, provided that these works, performances, phonograms and broadcasts have not yet entered the public domain, owing to the fact that the period of protection, to which they were subject in the previous legislation or in the legislation of their country of origin, has expired.

The legal effects of the acts and contracts concluded or stipulated prior to the entry into force of this Law shall remain intact and unaffected.

Entry into Force
Article 70

The provisions of this Law shall enter into force six months after its publication in the Official Gazette.

Repeal
Article 71

Dahir No. 1-69-135 of 25 jomada I 1390 (July 29, 1970), relating to the protection of literary and artistic works, is hereby repealed.