

LAW # 9.610 OF FEBRUARY 19, 1998

Modifies, updates and unifies the legislation on Copyright and provides other resolutions.

THE PRESIDENT OF THE REPUBLIC

The National Congress decrees and I approve the following Law:

TITLE I - PRELIMINARY PROVISIONS

Article 1 - This Law is intended to regulate authors' rights, in the understanding that this denomination encompasses author's and neighboring rights.

Article 2 - Aliens domiciled abroad will benefit from the protection granted by the agreements, conventions and treaties to which Brazil has adhered.

Sole Paragraph - The provisions of this Law apply to nationals or people domiciled in countries granting Brazilian citizens or the people domiciled in Brazil reciprocity as regards the protection to copyright or equivalent rights.

Article 3 - Copyright is regarded, to the legal effects, as mobile goods.

Article 4 - Legal transactions as regards copyright are restrictively interpreted.

Article 5 - For the purposes of this Law, the following expressions mean:

I - publication - the making available to the public of a literary, artistic or scientific work, with the consent of the author, or any other right-owner(s) by any manner or processes;

II - transmission or emission: - the dissemination of sounds or sounds and images, by means or radio-electric waves, satellite signals, wire, cable or any other conduct, optical means or any other electromagnetic process.

III - retransmission - the simultaneous emission of the transmission of one broadcaster by another one;

IV - distribution: - the making available to the public of the original or copy of literary, artistic or scientific works, performances or fixed performances and phonograms, by means of sale, rental or any other way of transferring property or possession.

V - communication to the public - is the act by which the work is made available to the public, by any means or process which does not consist in the distribution of copies;

VI - reproduction - the copy of one or several specimens of a literary, artistic or scientific work, tangible in any way, including any permanent or temporary deposit by electronic means or any other means of fixations to be developed;

VII - counterfeiting -the unauthorized reproduction;

VIII - work:

a) in co-authorship: when it is created in common by two or more authors;

b) anonymous: when the name of the author is not indicated, either due to his own decision or because it is unknown;

c) pseudonymous: when the author's identity is hidden by an assumed name;

d) unpublished - that which has not been disclosed;

e) posthumous - that which is published after the death of the author;

f) original - the primitive creation;

g) derivative - that which, being a new intellectual creation, is the result of the transformation of an original work;

h) collective - that which is created by the initiative, organization and responsibility of a natural person or legal entity, which publishes the work under his name or trademark and which is composed by the participation of different authors, whose contributions combine in an autonomous creation;

i) audiovisual - that resulting from a fixation of images with or without sound, with the aim of creating, by means of its reproduction, the impression of movement, independently of the process of reception, of the carrier used initially or later to fix it, as well as of the means used for disclosure;

IX - phonogram - any fixation of sounds of a performance or other sounds, or of a representation of sounds other than in the form of a fixation, incorporated in an audiovisual work;

X - publisher - the person or the legal entity having the exclusive right of reproduction of the work, and who is responsible for publishing it within the limits established in the publishing contract;

XI - producer - the person or the legal entity, taking initiative and the economic responsibility for the first fixation of the sounds of the phonogram or of the audiovisual work, regardless of the carrier being used;

XII - broadcasting - the wireless transmission, including satellites, of sounds or images and sounds or the representation of same, for the reception by the public and the transmission of encrypted signals, where the means for decrypting are provided to the public by the broadcasting organization or with its consent;

XIII - performers - the actors, singers, musicians, dancers and other persons who act, sing, deliver, declaim, interpret or otherwise perform literary or artistic works or expressions of folklore;

Article 6 - The ownership of the works created under the auspices of the Nation, the State, Provincial States, the District Capital or the Municipalities will not belong to such entities notwithstanding their subvention.

TITLE II - INTELLECTUAL WORKS

CHAPTER I - PROTECTED WORKS

Article 7 - Protected intellectual works are the creations of the spirit, expressed by any means or fixed in any carriers, tangible or intangible, already known or to be developed in the future, such as:

I - texts of literary, artistic or scientific works;

II - lectures, speeches, sermons and other works of the same nature;

III - dramatic and dramatic-musical works;

IV - choreographic and entertainment in dumb shows, having their scenic performance in writing or in any other way;

V - musical compositions, with or without lyrics;

VI - audiovisual works, with or without music, including cinematographic works;

VII - photographic works and those produced by a process analogous with photography;

VIII - works of drawing, paintings, engraving, sculpture, photography and kinetic arts;

IX - illustrations, maps and works of the same nature;

X - projects, drafts, and works of fine arts relating to geography, engineering, topography, architecture, landscaping, scenery and science;

XI - adaptations, translations and other transformations of original works, presented as a new intellectual creation;

XII - computer programs;

XIII - collections or compilations, anthologies, encyclopaedias, dictionaries, data bases and other works which, in view of the selection, organization or arrangement of their contents, constitute intellectual creations.

Paragraph 1 - Computer programs are dealt with in specific legislation, but applying the provisions under this Law whenever they are applicable.

Paragraph 2 - The protection granted by clause XIII above does not include the data or materials in themselves, and is understood irrespective of any copyright granted to the data or materials contained in the works.

Paragraph 3 - In the scientific domain, the protection will cover the literary or artistic form, but does not include the scientific or technical contents, without prejudice of any other rights protecting other areas of immaterial property.

Article 8 - The protection granted by this law shall not apply to:

I - the ideas, normative procedures, systems, methods, projects or mathematical concepts as such;

II - the schemes, plans or rules to carry out mental acts, games or businesses;

III - forms to be filled in with any type of information, scientific or not, and their instructions;

IV - the texts of treaties and conventions, laws, decrees, regulations, court decisions and other official acts;

V - the information of common use such as calendars, agendas, registers or legends;

VI - isolated names and titles;

VII - the industrial or commercial use of the ideas contained in the works.

Article 9 - The copy of the work of fine arts made by its author has the same protection as that granted to the original.

Article 10 - The protection granted to the intellectual work also includes its title, when it is original and unmistakable with work of the same genre, previously divulged by another author.

Sole Paragraph - The title of periodical publications, including newspapers, will be protected for a year after the release of the last issue, except if they were annually released, in which case the term will be increased to two years.

CHAPTER II - THE AUTHORSHIP OF INTELLECTUAL WORKS

Article 11 - The author is the natural person who creates a literary, artistic or scientific work.

Sole Paragraph - The protection granted to the author may be applied to legal entities in the cases mentioned in this Law.

Article 12 - To be identified as an author, the creator of a literary, artistic or scientific work may use his civil name, complete or abbreviated even by its initials, pseudonym or any other conventional signal.

Article 13 - The author of a work shall be considered to be, barring proof to the contrary, the person who, by any of the modes of identification referred to in the previous article has, according to the normal usage, indicated or announced his/her authorship.

Article 14 - The protection under by this law is also granted to the person who adapts, translates, arranges or orchestrates a work which fell in the public domain; however, these right-owners cannot oppose to any other adaptation, arrangement, orchestration or translation, except if they were a copy of their own work.

Article 15 - The co-authorship of the work is recognized in favor of those in whose name, pseudonym or conventional signal it is used.

Paragraph 1 - The person who simply assisted the author to produce the literary, artistic or scientific work by means of revising, updating, as well as monitoring or managing its publication or presentation by any means shall not be considered being a co-author.

Paragraph 2 - All the faculties recognized in favor of the creator of an individual work are recognized also in favor of the co-author, but any use which may negatively affect the exploitation of the common work is nevertheless forbidden.

Article 16 - The author of the literary, musical or musical and literary plot or script as well as the director are all deemed co-authors of the audiovisual work.

Sole Paragraph - The co-authors of animated cartoons are those which create the cartoons used in the audiovisual work.

Article 17 - The protection to individual participation is granted in the case of collective works.

Paragraph 1 - Any of the participants, exercising their moral rights, has the right to forbid any indication or announcement of his/her name in the collective work, without prejudice of the right to receive the agreed remuneration.

Paragraph 2 - The ownership of the economic rights on the whole of the collective work corresponds to the organizer.

Paragraph 3 - The agreement with the organizer will specify the contribution of each participant, the term for delivery or completion of the work, the remuneration and the remaining conditions for its execution.

CHAPTER III - THE REGISTRATION OF INTELLECTUAL WORKS

Article 18 - The protection of the rights recognized by this Law is independent of any registration.

Article 19 - The creator is enabled to register his work at the public agency mentioned in the main clause and in Paragraph 1 of Article 17 of Law n 5.988, of 14 December, 1973.

Article 20 - A fee will be paid for the services mentioned in this Law. The value of the fee and the collection process will be determined by the head of the agency of the federal administration to which the registry of intellectual works is linked.

Article 21 - The registration services referred to in this Law will be organized according to the provision in Paragraph 2 of article 17 of Law n 5.988, of 14 December, 1973.

TITLE III - AUTHORS' RIGHTS

CHAPTER I - PRELIMINARY PROVISIONS

Article 22 - The author has moral and economic rights on the work he/she has created..

Article 23 - The co-authors of an intellectual work will come to an agreement on the exercise of their rights, unless otherwise decided.

CHAPTER II - MORAL RIGHTS

Article 24 - The author shall enjoy the following moral rights:

I - that of claiming, at any time, the authorship over his work;

II - that of having his name, pseudonym or conventional signal indicated or announced, as being his own, when the work is used;

III - that of keeping his work unpublished;

IV - that of ensuring the integrity of his work, objecting to whatsoever modifications or to any action that may, in any way, negatively affect his work or himself, both as regards his reputation and his honor;

V - that of modifying his work, before or after it has been used;

VI - that of withdrawing his work from circulation or that of suspending in any way the utilization already authorized, when such circulation or utilization imply an offense to his reputation and image;

VII - that of having the right of access to the one and only, rare specimen of his work, when it is legitimately in possession of third persons, with the aim of preserving his memory, through any photographic process or similar, or audiovisual, so as to cause the minimum possible inconvenience to the possessor who, in any case, will be indemnified for any damage or prejudice he may have been caused.

Paragraph 1 - Upon the death of the author, the rights referred to in clauses I to IV will be exercised by his successors.

Paragraph 2 - The National State will assume the defense over the integrity and the authorship of those works which fell in the public domain.

Paragraph 3 - As far as clauses V and VI are concerned, any previous compensations to third parties are preserved, whenever applicable.

Article 25 - The director will be entitled to exercise of the moral rights over the audiovisual work.

Article 26 - The author is entitled to repudiate the authorship of the architectural project which has been modified without his consent during the process of construction or after the building has been finished.

Sole Paragraph - The owner of the building is responsible for any damages caused to the author, provided that, after the repudiation, there is evidence that the authorship of the project which has been refused belongs to him.

Article 27 - The moral rights of the author are inalienable and non-renounceable.

CHAPTER III - THE ECONOMIC RIGHTS OF AUTHORS AND THEIR DURATION

Article 28 - The author has the exclusive right to use, usufruct and dispose of his literary, artistic or scientific work.

Article 29 - The use of the work depends on his previous and manifest authorization, by any modes, such as:

I - the total or the partial reproduction of the work;

II - its publishing;

III - its adaptation, musical arrangement or any type of transformation;

IV - its translation into any other language;

V - its inclusion in a phonogram or audiovisual production;

VI - its distribution, when it does not derive from the agreement signed between the author and third persons regarding the use or exploitation of the work;

VII - its distribution, for making available to the public the works or productions through cable, optic fiber, satellite, waves or any other system which allows the user to select the work or production, to access it at the time and place previously chosen by the person requiring the download of the work

or production, and in the cases in which the access to works and productions is made through any system implying any payment by the user;

VIII - the direct or indirect use of the literary, artistic and scientific works, by means of:

- a) declamation, performance or recitation;
- b) musical performance;
- c) the use of loudspeakers or similar systems;
- d) radio or television broadcasting;
- e) reception of the broadcasting in places often visited by the public;
- f) background music;
- g) the audio-visual and film exhibitions, or that carried out by a similar process;
- h) the use of artificial satellites;
- i) the use of optic systems, telephone wires or not, or cable of any type, and similar communication means which may be adopted in the future;
- j) exhibition of works of fine and figurative arts;

IX - their embodiment in databases, the storage in computers, microfilming and other ways of storing;

Paragraph 1 - any other existing means of utilization, or those to be invented in the future.

Article 30 - When exercising the right of reproduction, the owner of the copyright may make the work available to the public in the way, place, and for the period of time he wishes, either onerously or free.

Paragraph 1 - The right of exclusiveness regarding the reproduction shall not be applied when such right is temporary and with the sole purpose of making the work, phonogram or performance perceivable in an electronic mean, or when it is of a transitory and incidental nature, provided it takes place during the course of the utilization of the work duly authorized by the author;

Paragraph 2 - In any type of reproduction, the number of copies will be informed and monitored, and the person reproducing the work shall be responsible for keeping the registers which will enable the author to verify the economic results of the exploitation.

Article 31 - The different modes of utilization of literary, artistic and scientific works and of phonograms are independent from each other, and the authorization granted by the author or the producer as regards one of them, does not extend to the others.

Article 32 - In the case of a non divisible work created under the regime of co-authorship, none of the co-authors, under penalty of damages, will be enabled to publish or authorize the publication without the authorization of the remaining co-author(s), except in the case of the collection of his complete works.

Paragraph 1 - In case of divergence, the co-authors will decide by majority.

Paragraph 2 - The dissident co-author will not be obliged to contribute with the publication expenses, renouncing to his participation in the profit, and shall also be enabled to prevent his name being mentioned in the work.

Paragraph 3 - Every co-author, without requiring the consent of the rest, may register the work and defend his own rights against third persons.

Article 33 - Nobody is entitled to reproduce any work which does not belong to the public domain, under the excuse of making remarks or comments on it, or even improving it, without the authorization of the author.

Sole Paragraph - Such comments or remarks may be published separately.

Article 34 - Private letters whose publication is conditioned to the authorization of the author, may be attached as evidences in administrative and judicial lawsuits.

Article 35 - When the author, after revising his work, has brought it to the final version, his successors are not entitled to reproduce previous versions.

Article 36 - The right to the economic use of the writings published in the daily press or in journals, with the exception of those bearing a signature or which are marked "reserved", belongs to the publisher, unless otherwise agreed.

Sole Paragraph - The authorization for the economic use of articles signed for their publication in newspapers and journals, does not produce any effect beyond the term of the periodicity increased in twenty days, from the date of publication, after which the author recovers his right.

Article 37 - The acquisition of the original of a work, or of one unit, does not grant the buyer any of the economic rights of the author, unless otherwise agreed between the parties and the cases mentioned in this Law.

Article 38 - The author has the non renounceable and inalienable right to receive at least five per cent on the increase of the price eventually verified in each resale of a work of art or manuscript, whose original he may have previously alienated.

Sole Paragraph - In case the author does not receive this *droit de suite* in the act of the resale, the seller will be considered as bailee of the amount owed to the author, unless the transaction was made through an auctioneer, in which case the latter will be the bailee.

Article 39 - The economic rights of the author, except the profit resulting from the exploitation, do not communicate between spouses, except prenuptial agreement.

Article 40 - The exercise of the economic rights of the author in the case of the anonymous or pseudonymous work corresponds to the person who publishes it.

Sole Paragraph - When the author makes himself known, he will assume the exercise of his economic rights, without prejudice of rights acquired by third persons.

Article 41 - The duration of the economic rights of the author is seventy years from the first of January of the year following his death, the order of the heirs having to be obeyed.

Sole Paragraph - The term of protection mentioned in the above paragraph is also applied to posthumous works.

Article 42 - When the literary, artistic or scientific work created in co-authorship is indivisible, the term established in the previous article will be counted from the date of the death of the last one of the surviving co-authors.

Sole Paragraph - The rights of the co-author who dies without heirs will increase those of the surviving ones.

Article 43 - The term of protection of economic rights over the anonymous and posthumous works will be seventy years, counted from the 1st of January of the next year following that of the first publication.

Sole Paragraph - in case the author makes himself known before the end of the term established in the preceding paragraph, the provisions set in Article 41 and its Sole Paragraph will be applicable.

Article 44 - The term of protection of economic rights over the audiovisual and photographic works will be seventy years from the 1st of January of the year following that of its publication.

Article 45 - Apart from the works whose term of protection has expired, the following also belong to the public domain:

I - those of authors who have died without leaving any heirs;

II - those of unknown authors, without prejudice of the legal protection to the ethnic and traditional knowledge.

CHAPTER IV - LIMITS OF PROTECTION

Article 46 - The following activities shall be lawful as regards authors' rights:

I - the reproduction:

a) in the daily press or in journals, of any news or informative article, published in newspapers or journals, with the mention of the name of the author, if they were signed, and of the publications from which they were transcribed;

b) in newspapers or journals, of speeches delivered in public meetings of any nature;

c) of portraits, or in any other way of representing the image, made to order, when it is made by the owner of the requested object, without any opposition from the person represented in them or from his heirs;

d) of literary, artistic or scientific works, to be exclusively used by visually handicapped, provided the reproduction is made for non-commercial purposes and using the Braille system or any other procedure employing any carrier for those disabled people.

II - the reproduction, in an only specimen of brief excerpts, for the private use of the copyist, provided it has been made by the latter and for non-profit purposes.

III - the quotation in books, newspapers, magazines or any other means of communication, of excerpts of any work for the purposes of study, critics or polemics, in the extension justified for the specific aim, with the indication of the name of the author and the origin of the work;

IV - the notes taken during the classes in educational institutions by those to which they are addressed, being forbidden to publish them totally or partially, without the prior and explicit authorization of the person who dictated the classes;

V - the use of literary, artistic or scientific works, phonograms and radio and television broadcastings in commercial establishments, with the exclusive aim of demonstrating the products to their customers, provided those establishments sell the carriers of equipment which allow its utilization;

VI - the theatrical and musical performances when they are made within the familiar circle of with exclusive didactic purposes, at the educational institutions and for non-profit-making activities.

VII - the utilization of literary, artistic or scientific works to produce judicial or administrative evidences;

VIII - the reproduction, in any work, of brief excerpts of pre-existing works of any nature, or of an integral work, in the case of a work of fine arts, provided the reproduction in itself is not the main aim of the new work, and that the normal exploitation of the work reproduced is not affected nor causes unfair prejudice to the legitimate interests of the authors.

Article 47 - It is allowed to make paraphrases and parodies provided they are not actually reproductions of the original work nor cause any discredit to it.

Article 48 - The works permanently placed in the public thoroughfare may be represented freely by means of paintings, drawings, photographs and audiovisual procedures.

CHAPTER V - TRANSFER OF AUTHORS' RIGHTS

Article 49 - Authors' rights can be totally or partially transmitted to third persons, either by the author himself or his heirs, totally or individually, personally or by means of representatives with special powers, by modes such as license, grant, assignment or any other means legally admitted, observing the following limitations:

I - the total transfer comprises all the authors' rights, except those of moral nature and those expressly excluded by law;

II - the total and definite transfer of the rights will only be admitted in writing, as a provision within a written agreement;

III - in case there is no written provision, the maximum term for the transfer will be five years;

IV - the assignment will only be valid for the country where the agreement was signed, unless otherwise agreed;

V - the assignment will only be valid for the types of utilization already existing at the time of the agreement;

VI - in case there is no specification as regards the type of utilization, the contract will be of interpreted restrictively, in the understanding that the utilization is limited only to the use which is considered essential to achieve the purpose of the contract.

Article 50 - The total or partial assignment of the authors' rights, which will always be executed in writing, will always be deemed as to have taken place onerously.

Paragraph 1 - The assignment may be annotated in the registration referred to in article 19 of this Law or, in the case of a non-registered work, by means of the register of the instrument in the Registry of Titles and Documents.

Paragraph 2 - In the instrument describing the assignment, the object and the conditions for the exercise of the right as far as timing, place and price are concerned will be considered as essential elements.

Article 51 - The assignment of the authors' rights as regards future works will cover, as a maximum, a period of five years.

Sole Paragraph - In case the term is not determined or if it surpasses five years, it will be reduced to this term, decreasing proportionally the price agreed.

Article 52 - The anonymity or the assignment of the rights will not be presumed in the case of the omission of the name of the author or the co-author when the work is divulged.

TITLE IV - USES OF INTELLECTUAL WORKS AND PHONOGRAMS CHAPTER I - PUBLISHING CONTRACT

Article 53 - Under a publishing contract, the publisher is required to reproduce, disclose and disseminate the literary, artistic or scientific work, and is authorized, in an exclusive way, to publish it and exploit it for the term and under the conditions agreed with the author.

Sole Paragraph - The publisher will have the following mentions made in each copy of the publication:

I - the title of the work and the name of its author;

II - in case there is a translation, the original title and the name of the translator;

III - the year of the publication;

IV - the name or mark that identifies the publisher.

Article 54 - By the publishing contract, the author may also commit himself to carry out a literary, artistic or scientific work, its publication or promotion being the responsibility of the publisher.

Article 55 - In case of death or impossibility on the part of the author to conclude his work, the editor shall, at his election:

I - consider that the contract has expired, even in the case that a considerable part of the work has been delivered;

II - publish the work, as an autonomous work, paying the proportion of the agreed remuneration;

III - have the work finished by a third person, in which case the consent of the heirs will be needed, such fact being mentioned in the edition.

Sole Paragraph - The partial publication of the work is forbidden when the author had declared his wish to publish it in its integrity, or if so decide his heirs.

Article 56 - In the absence of an explicit provision in the contract, it is understood that the agreement refers only to one edition of the work.

Sole Paragraph - In case of silence in the contract, it is understood that each edition will comprise three thousand copies.

Article 57 - The remuneration will be fixed according to the local usage, provided the author has not yet determined it expressly.

Article 58 - If the originals were delivered in disagreement with the clauses of the contract, and in the case the publisher has not refused them within thirty days following its receipt, the modifications introduced by the author shall be considered accepted.

Article 59 - Whatever the conditions of the contract are, the publisher is compelled to allow the author to examine the text in the corresponding part, as well as keeping him informed on the state of the edition.

Article 60 - The publisher is responsible for fixing the selling price. However, he will not increase it in such a way as to obstruct the circulation of the work.

Article 61 - The publisher shall render monthly accounts to the author, whenever the remuneration of the creator depends on the sale of the work, unless a different term were agreed.

Article 62 - The work shall be published within two years from the date of the contract, unless a different term has been agreed.

Sole Paragraph - In case the publication of the work has not been made in the term specified in the contract or by the law, such contract may be canceled, and the publisher shall indemnify the author for any damages.

Article 63 - Whilst the edition to which the publisher is entitled is not sold out, the author will not have the right to recover the management of his work, but the publisher shall have the responsibility of bringing the evidence of this fact.

Paragraph 1 - Whilst the publishing contract is in force, the publisher has the right to require the withdrawal of circulation of another publication of the same work made by a third person.

Paragraph 2 - The edition is considered to be sold out when the number of units in the stock of the publisher represents less than ten per cent of the total edition.

Article 64 - Only after one year following the release of the edition, will the publisher be entitled to sell the remaining units, as a clearance sale, provided the author has been notified that, within the period of thirty days, he will have priority for the acquisition of said units by the sale price.

Article 65 - If the edition has sold out, and the publisher, entitled to release a new one, has not done it, then the author may notify him comply with it in a certain period of time, under penalty of losing the right to make a new edition, apart from his responsibility for damages.

Article 66 - The author has the right to introduce in the successive editions of his works, the corrections and modifications he may deem convenient.

Sole Paragraph - The publisher may oppose to those modifications which may affect his business, offend his reputation or increase his responsibility.

Article 67 - If in view of its nature, the up-dating of the work in new editions becomes essential, the publisher, in case of refusal of the author to do it, can have it made from a third person, mentioning such fact in the edition.

CHAPTER II - COMMUNICATION TO THE PUBLIC

Article 68 - Theatrical plays, musical or musical and literary compositions and phonograms shall not be utilized in public performances unless previously and expressly authorized by the author or right-owner.

Paragraph 1 - Public presentation refers to the utilization of theatrical works pertaining to genres such as drama, tragedy, comedy, opera, operetta, ballet, pantomimes and similar, with or without music, with the participation of artists, remunerated or not, in places visited by the public, or by means of broadcasting, transmission and film exhibition.

Paragraph 2 - Public performance refers to the utilization of musical or literary and musical compositions, with the participation of artists, remunerated or not, or the utilization of phonograms and audiovisual works in places visited by the public, by any means, including broadcasting or transmission by any way and film exhibition.

Paragraph 3 - Places visited by the public are the theaters, cinemas, dancing or concert rooms, night clubs, bars, clubs or associations of any nature, stores, commercial and industrial establishments, stadiums, circus, fairs, restaurants, hotels, motels, clinics, hospitals, public offices of the direct and indirect administration, state organizations and foundations, means of transportation of passengers, such as terrestrial, maritime, fluvial or by air, or wherever literary, artistic or scientific works are represented, performed or transmitted.

Paragraph 4 - Prior to the public performance, the agent shall submit to the central bureau mentioned in Article 99, evidence of payments of copyright owed.

Paragraph 5 - When the remuneration depends on the attendance of public, the agent, by means of an agreement with the central bureau, is allowed to pay the rights after the public performance has been carried out.

Paragraph 6 - The agent will deliver to the central bureau immediately after the public performance or transmission have finished, a complete list of the works and phonograms used, indicating the names of the authors, artists and producers.

Paragraph 7 - Cinematography and broadcasting companies will permanently have available for the interested parties, a legalized copy of individual or collective contracts, agreements or settlements, authorizing and giving instructions on the remuneration for the public performance of musical works and phonograms, contained in their programs or audiovisual works.

Article 69 - The author, according to the local usage, will notify the agent on the period for the representation or performance, unless a prior agreement is in force.

Article 70 - The author has the right to object to the representation or performance which has not been sufficiently rehearsed, as well as to monitor it, having also the right of free access during the representations or performances, in the place they take place.

Article 71 - The author of the work cannot modify its substance without the previous agreement with the agent that is putting it on stage.

Article 73 - The principal performers and the orchestra or chorus conductors, chosen by agreement between the author and the producer, cannot be substituted by decision of the latter, without the previous consent of the author.

Article 74 - The author of a theatrical play, when authorizing the translation or adaptation of his work, may determine the term for its use in public performances.

Sole Paragraph - After the expiration of the term referred to in the previous clause, neither the translator nor the adapter can object to the utilization of another authorized translation or interpretation, except in the case of a copy of their own.

Article 75 - Once the representation of the theater play created in co-authorship has been authorized, none of the co-authors can revoke such permit, which may cause the suspension of the performances agreed for that season.

Article 76 - The amount of the money collected during shows and to be used for payment to authors and performers shall be unattachable.

CHAPTER III - ON THE USE OF THE WORK OF FINE ARTS

Article 77 - Unless otherwise agreed, the author of the work of fine arts, when transferring the property of the object in which it is materialized, also transmits the right of exhibition, but not the right of reproduction.

Article 78 - The authorization for the reproduction of the work of fine arts by any process, must be in writing and is deemed onerous.

CHAPTER IV - USE OF THE PHOTOGRAPHIC WORK

Article 79 - The author of the photographic work has the right of reproduction and sale, honoring the restrictions as regards the exhibition, reproduction and sale of portraits, without prejudice of the rights of the author over the work photographed, if they were protected as a work of fine arts.

Paragraph 1 - When the photography is utilized by third persons, the name of the author shall be legibly indicated.

Paragraph 2 - The reproduction of the photographic work which does not coincide with the original is forbidden, unless otherwise agreed with the author.

CHAPTER V - USES OF PHONOGRAMS

Article 80 - When publishing the phonogram, the producer will indicated in each copy:

I - The title and the author of the work included;

II - the name or pseudonym of the performer;

III - the year of publication;

IV - the name or mark that identifies the producer.

CHAPTER VI - ON THE USE OF AUDIOVISUAL WORKS

Article 81 - The authorization of the author and of the performer of literary, artistic or scientific work in the case of performer of literary, artistic or scientific work for an audiovisual production implies, unless otherwise agreed, the consent for its economic use.

Paragraph 1 - The exclusiveness of the authorization depends upon the existence of an explicit clause and expires ten years after the date of the contract.

Paragraph 2 - The producer will mention in each copy of the audiovisual work:

I - the title of the audiovisual work;

II - the names and pseudonyms of the director and of the co-authors;

III - the title of the adapted work and the name of the author, if that were the case;

IV - the names of the artists and performers;

V - the year of publication;

VI - the name and mark that identifies the producer.

Article 82 - The contract on audiovisual production shall determine:

I - The remuneration owed by the producer to the co-authors of the work and to the artists and performers, as well as the time, place and way of payment;

II - the term for the conclusion of the work;

III - the responsibility assumed by the producer as regards co-authors, artists and performers, in the case of a co-production.

Article 83 - The participant in the production of the audiovisual work which interrupts his participation either temporarily or definitely, shall not object to his participation being utilized in the work nor to its substitution by a third person, without prejudice of the protection granted to the rights he acquired as regards his participation.

Article 84 - In case the remuneration of the co-authors of the audiovisual work depends on the product of its economic use, the producer will give accounts every six months unless otherwise agreed.

Article 85 - Unless otherwise determined in the contract, the co-authors of the audiovisual work are enabled to use, in different genres, the part that constitutes their own personal contributions.

Sole Paragraph - If the producer does not finish the audiovisual work in the agreed period of time, or does not initiate its exploitation within two years from the date of conclusion, the use referred to in this article shall be completely free.

Article 86 - The rights of musical performance referred to the musical, literary and musical works and phonograms included in audiovisual works, will be owed to the right-owners by the persons in charge of the places or establishments where they are exhibited, and which are mentioned in Paragraph 3 of Article 68 of this Law, or by the television stations that broadcast them.

CHAPTER VII - USE OF DATABASES

Article 87 - The owner of the economic right over a database will have the exclusive right, as regards the manner of expression of the structure of said database, to authorize or prohibit:

I - its total or partial reproduction, by any means or process;

II - its translation, adaptation, rearrangement or any other modification;

III - the distribution of the original or of copies of the database, or its communication to the public;

IV - the reproduction, distribution or communication to the public of the results of the operations mentioned in clause II of this Article.

CHAPTER VIII - USE OF THE COLLECTIVE WORK

Article 88 - When publishing the collective work, the organizer shall mention in each copy:

I - the title of the work;

II - the names of all the participants in alphabetical order, unless otherwise agreed;

III - the year of publication;

IV - the name and mark that identifies him.

Sole Paragraph - In order to enjoy the benefit of Paragraph 1 of Article 17, the participant shall notify the organizer accordingly, until the date of his participation, and in writing.

TITLE V - NEIGHBORING RIGHTS CHAPTER I - PRELIMINARY PROVISIONS

Article 89 - The provisions referring to the rights of authors will be applied, when corresponding, to the rights of artists, performers, phonogram producers and broadcasting organizations.

Sole Paragraph - The protection granted under this Law to the rights mentioned in this Article leave intact and in no way affect the protection of copyright in literary, artistic or scientific works.

CHAPTER II - ON THE RIGHTS OF ARTISTS AND PERFORMERS

Article 90 - The artists and performers enjoy the exclusive right of authorizing or prohibiting, either for a remuneration or not:

I - the fixation of their performances;

II - the reproduction, public performance and the rental of their fixed performances;

III - the broadcasting of their performances, fixed or not;

IV - the making available to the public of their performances, in such a way that any person can have access to them, at the time and place individually chosen by them;

V - any other mode of utilization of their performances;

Paragraph 1 - When several artists participate jointly in the performances, their rights will be exercised by the director of the group.

Paragraph 2 - The protection granted to artists and performers is extended to the reproduction of their voices and images, when these are associated to their performances.

Article 91 - The broadcasting organization may carry out fixations of performances, by artists who have permitted such fixations to be used in a determined number of emissions, and allowing their conservation in public archives.

Sole Paragraph - The subsequent use of the fixation, either in the country or abroad, can only be made through the authorization in writing of the right-owners of the intellectual goods included in the program, and an additional remuneration will be owed to those right-owners for any new utilization.

Article 92 - The performers shall enjoy the moral rights of integrity and paternity over their performances, even after the assignment of the economic rights, without prejudice of the reduction, compacting, publication or dubbing of the work in which he has participated, under the responsibility of the producer, who shall not disfigure the artist's performance.

Sole Paragraph - The death of any performer in the audiovisual work, be it concluded or not, will not affect its exhibition and economic use, nor demands any additional authorization, the remuneration of said performer determined by the contract and the law, to be paid to the undivided state or the heirs.

CHAPTER III - RIGHTS OF THE PHONOGRAM PRODUCERS

Article 93 - The phonogram producer shall enjoy the exclusive right of authorizing or prohibiting, either for a remuneration or not:

I - the direct or indirect reproduction, total or partial;

II - the distribution by means of sale or rental of copies of the reproduction;

III - the communication to the public by means of public performance, including broadcasting;

IV - (VETOED)

V - any other manner or form of utilization, already existing or to be invented in the future.

Article 94 - Corresponds to the phonogram producer the reception from the users mentioned in Article 68 and its additional clauses in this Law, the pecuniary results from the public performance

of their phonograms, sharing them with the performers, under the conditions agreed with them or their associations.

CHAPTER IV - RIGHTS OF THE BROADCASTING ORGANIZATIONS

Article 95 - Corresponds to the broadcasting organizations the exclusive right to authorize and prohibit the retransmission, fixation and reproduction of their emissions, as well as the communication to the public, by television, in places visited by the public, without prejudice to the rights of the owners of the intellectual goods included in the programs.

CHAPTER V - ON THE TERM OF PROTECTION OF NEIGHBORING RIGHTS

Article 96 - The term of protection on neighboring rights is seventy years from the 1st of January of the year following that of the fixation, for the phonograms; that of the transmission, for the emissions of broadcasting organization; and that of the performance for the remaining cases.

TITLE VI - ON THE ASSOCIATIONS OF RIGHT-OWNERS OF COPYRIGHT AND NEIGHBORING RIGHTS

Article 97 - For the exercise and defense of their rights, authors and owners of neighboring rights can join non-profit organizations.

Paragraph 1 - It is forbidden to belong to more than one association for the collective management of rights of the same nature.

Paragraph 2 - The right-owner can transfer his affiliation, at any time, to another association, having the obligation to inform such fact in writing to the association of origin.

Paragraph 3 - The associations domiciled abroad will be represented in the country, by local national associations constituted under the provisions of this Law.

Article 98 - From the moment of affiliation, the associations become mandates of their members for the performance of all the necessary activities for the judicial or out-of-court defense of their copyright or neighboring rights, as well as for its collection.

Sole Paragraph - The right-owners may personally exercise the activities referred to in this article, in which case they shall communicate this fact to their associations.

Article 99 - The associations will keep a central bureau for the joint collection and distribution of the performing rights for musical, musical/literal works and phonograms, including the rights for their broadcastings and transmissions in any way, and for the exhibition of audiovisual works.

Paragraph 1 - The central bureau organized as mentioned in this provision will be a non-profit making institution and will be governed and administered by the member associations.

Paragraph 2 - The central bureau and the associations mentioned in this Title will act both judicially and out-of-courts in their own behalf, in substitution of the member right-owners.

Paragraph 3 - The collection of rights by the central bureau will be only carried out by means of bank deposits.

Paragraph 4 - The central bureau may employ inspectors, to whom it is forbidden to receive any sums of money from the agents for any concept.

Paragraph 5 - Any infringement of the prohibition mentioned in the preceding paragraph, will cause the disqualification of the inspector, without prejudice of the civil and criminal penalties applicable.

Article 100 - The union or professional association gathering no less than one third of the members of an authors' society may inspect and examine the accuracy of the accounts rendered to their members. Any such examination shall be made upon eight days written notice. The right of examination shall be no more than once in any period of twelve months.

TITLE VII - SANCTIONS IN CASE OF INFRINGEMENT OF COPYRIGHT AND NEIGHBORING RIGHTS

CHAPTER I - PRELIMINARY PROVISION

Article 101- Sanctions referred to in this Chapter will be applied without prejudice of the penalties also applicable.

CHAPTER II - CIVIL SANCTIONS

Article 102 - The right-owner whose work has been illegally reproduced, divulged or in any other manner used, may request the seizure of the infringing copies or the suspension of the publication, without prejudice of the corresponding indemnity for damages.

Article 103 - The person who publishes a literary, artistic or scientific work without the authorization of the right-owner, will have the infringing copies handed over to the legitimate right-owner, being also obliged to pay him for the copies already sold.

Sole Paragraph - In case the number of copies constituting the infringing publication is not known, the offender shall pay the value corresponding to three thousand copies, apart from those which have been seized.

Article 104 - The person who sells, exhibits for sale, hides, buys, distributes, stores or uses a work or phonogram illegally reproduced by means of fraud, with the aim of selling, obtaining gain, advantage, benefit, direct or indirect profit, for himself or for third parties, will be responsible together with the offender, in the terms of the preceding provisions. The importer and the distributor will also be considered offenders in case of reproductions made abroad.

Article 105 - The transmission and retransmission, by any means of process, and the communication to the public of literary, artistic or scientific works, performances and phonograms, by means of infringement to the right of their legitimate owners, will be immediately suspended or interrupted by the judicial competent authority, without prejudice of the daily fine for the breach and the other applicable indemnities, independently of the remaining criminal sanctions; in case the offender is a recidivist as regards the violation of copyright and neighboring rights, the fine can be extended to double of the original value.

Article 106 - The condemnatory sentence may determine the destruction of all the infringing copies, as well as the matrixes, molds, negatives and other devices used in the perpetration of the civil infringement, as well as the loss of the machines, equipment and materials used, or even its destruction, when said devices are only used in the manufacture of infringing copies.

Article 107 - Independently of the loss of the equipment, the offender will be responsible for damages, never inferior to the value resulting from the application of the provisions in article 103 and its Sole Paragraph, when:

I - modifies, eliminates or seriously damages, in any way, technical devices introduced in the copies of protected works or productions to avoid or limit the making of copies;

II - modifies, eliminates or seriously damages, in any way, any encrypted signals aimed to limit the communication to the public of protected works, productions or emissions, or to avoid the making of copies.

III - eliminates or alters, without authorization, any information on rights management;

IV - distributes, imports for distribution, emits, communicates or makes available to the public, without authorization, works, performances, copies of performances fixed in phonograms and emissions, knowing that the information on the management of rights, encrypted signals and technical devices have been suppressed or modified without authorization.

Article 108 - The person or entity which, in the use of intellectual work in any manner, fails to indicate or announce, as such, the name, pseudonym or conventional signal of the author and the performer, apart from his liability regarding the moral damages, will be obliged to divulge de identity in the following manner:

I - in the case of a broadcasting organization, at the same time at which the infringement was committed, during three consecutive days;

II - in the case of a printed publication or a phonogram, by means of the inclusion of an indication in the copies still not distributed, apart from the communication, in an prominent manner, during three consecutive times in an important newspaper published in the areas of domicile of the author, the performer and the publisher or producer.

III - in any other way of utilization, by means of the press, as explained in the preceding clause.

Article 109 - The public performance carried out in violation of Arts. 68, 97, 98 y 99 of this Law, will oblige the offenders to the payment of a fine of twenty times the value to be originally paid.

Article 110 - For the violation of copyright in shows and public performances carried out in the places mentioned in Article 68, their owners, directors, managers, agents and tenants will be jointly responsible with the organizers of the shows.

CHAPTER III - ON THE PRESCRIPTION OF ACTIONS

Article 111 - (VETOED)

TITLE VIII - FINAL AND TRANSITORY PROVISIONS

Article 112 - If a work, having expired the term of protection previously granted by Paragraph 2 - of Article 42 of Law 5.988 of 14 December 1973, has fallen in the public domain, will not have the duration of their economic rights extended under Article 41 of this Law.

Article 113 - Phonograms, books and audiovisual works will be subject to the insertion of seals or identification signals under the responsibility of the producer, distributor or importer, and free of charge to the consumer, to certify the fulfillment of the legal provisions in force, according to the regulating legislation.

Article 114 - This Law enters in force a hundred and twenty days after its publication.

Article 115 - By force of this Law the following provisions are revoked: arts. 649 to 673 and 1.346 to 1.362 of the Civil Code and Laws Nos. 4.944 of 6 April 1966; 5.988 of 14 December 1973, except article 17 and Paragraph Paragraph 1 and 2; 6.800 of 25 June 1980; 7.123 of 12 September 1983; 9.045 of 18 May 1995, and remaining provisions contrary to it , being kept in force Laws n - 6.533, of 24 May 1978 and 6.615, of 16 December 1978.

Brasília, 19 February 1998; 177 of the Independence and 110 of the Republic

FERNANDO HENRIQUE CARDOSO

Francisco Weffort