International Federation of Reproduction Rights Organisations

ifrro news

IFRRO HOME

Volume 18 – Number 3 – March 2015

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EVENTS:

8-9 April 2015 Fordham IP Conference, Cambridge, United Kingdom

15 April 2015 Charles Clark Memorial Lecture, London, United Kingdom

2 to 3 June 2015 IFRRO Midterm/Spring meetings - Vienna 2015, Vienna, Austria

8 to 9 June 2015 PDLN Annual Conference "Media Monitoring in the Global Village", Zurich, Switzerland

29 June to 3 July 2015 WIPO Standing Committee on Copyright and Related Rights (SCCR) - 30th session, Geneva Switzerland

14 to 18 October 2015 Frankfurt Book Fair, Frankfurt, Germany

11 November 2015 IFRRO World Congress & Annual General Meeting 2015, Mexico City, Mexico

7-11 December 2015WIPO Standing Committee on Copyright and Related Rights (SCCR) - 31st session, Geneva, Switzerland

LINKS TO OTHER NEWS:

IFRRO

New IFRRO blog, COLEGIS – COpyright LEGal ISsues

At the last Legal Issues Forum (LIF) meeting in October 2014, there was a request by IFRRO members to establish an IFRRO blog on copyright legislation and court cases.

Against this background, we established this IFRRO blog, COLEGIS – COpyright LEGal ISsues (http://ifrro.org/blog) – as a service for communication between IFRRO and IFRRO members wishing to provide and share up-to-date information on legislative initiatives, litigation, theory and practice, etc., with respect to copyright and collective management.

We hope that COLEGIS will increase the availability of information, encourage a healthy debate on legal matters affecting IFRRO members, and that many IFRRO members will make use of this opportunity to post information on legal issues related to copyright to this blog.

In order to comply with the legal requirements, there are some boundaries on the type of content that can be hosted with this IFRRO blog. We would therefore kindly ask all contributors to this blog to please respect the IFRRO Blogging Rules and Guidelines (Blogging Rules).

IFRRO's General Counsel has overall responsibility for COLEGIS. In case of any questions or comments, please contact Anita Huss-Ekerhult by e-mail at:anita.huss@ifrro.organita.huss@ifrro.org.

If you want to follow the blog you should right click on the RSS feed symbol on the page and copy the link address. Then go to your mail folder for RSS feeds and add a new one with the copied link address. If you want to follow individual posts, you will be able to click on a link "Subscribe to: This post". More information on RSS readers can be found here.
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If everything is for free, creation would be seriously affected – Olav Stokkmo

In an interview given to one of the main Chilean newspapers, Olav Stokkmo, IFRRO's CEO, shared some of his views on copyright, IFRRO's structure and its worldwide representation.

The interview took place during a short visit to the South American country (available here) and gave Stokkmo the opportunity to raise awareness about the knowledge economy and how it is based on copyright and intellectual property.

He emphasised the fact that, nowadays with the use of the internet, there is a tendency to forget that the content has been created by someone and that creators are entitled to live from their works. Jeron Lanier, a well-known American computer scientist, was the first one to draw attention to this problem, raising questions about the benefits of "free" content on the internet.

During this interview, Olav Stokkmo took the opportunity to throw the following question to the air: "Why should authors and publishers not be paid or rewarded just as any other worker?"

Finally, he also added the importance of collective management in providing seamless access to copyright works, and that educational institutions and others are offered better access when taking up licences with RROs, such as SADEL in Chile, to complement access offered by authors and publishers directly.
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RRO News

CEDRO wins case against YouKioske

On 4 March 2015, the two owners of the Spain-based website YouKioske, which offered free links to around 17,000 online newspapers and magazines, were found guilty by a Spanish criminal court of breaching intellectual property legislation and belonging to a criminal organisation; they have each been jailed for six years.

The complete court decision, which can be appealed, can be found (in Spanish) here (attached).

The case against YouKioske was brought by the Spanish RRO in membership of IFRRO, CEDRO, and the Association of Spanish Newspaper Publishers, AEDE. IFRRO supported the litigation via the IFRRO Enforcement Fund (see: here).

In January 2015, the Spanish government introduced new intellectual property legislation; meanwhile, the Socialist Party has referred the legislation to the Spanish Constitutional Court.

Besides, an amendment of the Spanish Criminal Code is supposed to come into force before summer 2015. Among other changes, the new Code redefines several types of criminal behaviour against intellectual property rights adapting to the digital world, and increases related penalties.
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CDR distributes royalties and boosts creativity and culture

CDR, the Colombian RRO IFRRO member, has reported that it is currently distributing the royalties collected during 2014 amounting to 160,000 USD. These 2014 royalties are only from reprographic reproduction.

The income coming from secondary uses of copyrighted material is definitely an important contribution to local authors and publishers since it allows them to continue creating and therefore also provides a boost to Colombian culture.
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IRRO Seminar on recent developments in Licensing – New Delhi

The Indian Reprographic Rights Organisation (IRRO) organized a high level International Seminar on ‘Newer Developments in Licensing of Copyrighted Material’ on 16 February 2015 in New Delhi. Experts on various aspects of copyright and reprography, leading authors, publishers, corporate institutions and legal experts, especially involved with the Intellectual Property Rights, both from India and foreign countries, including UK and the International Federation of Reproduction Rights Organisations (IFRRO), participated in the Seminar.

The main purpose of the Seminar was to update industry professionals about the ongoing efforts by IRRO and other like-minded organisations. It was also aimed at creating

awareness about the ill effects of photocopying not only on creativity, but also on the authors and publishers who are not getting sufficiently compensated for their rights.

Mr. A. Sethumadhavan, Chairman, National Book Trust, was the Chief Guest and Ms. Aparna Sharma, Director & Registrar, Copyright Office, Ministry of Human Resource Development, Government of India was the Guest of Honour. The keynote address was delivered by Mr. Pravin Anand, an eminent IPR Advocate. Other prominent speakers included Mr. Olav Stokkmo, Chief Executive, International Federation of Reproduction Rights Organisations (IFRRO) and Ms. Emma House, Director, Publisher Relations, Publishers Association of UK.
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Copyright Agency announces CEO's resignation

The Australian RRO, Copyright Agency, has announced that CEO Murray St Leger would be leaving the company in July 2015. Mr St Leger is moving back to the United Kingdom for family reasons. Murray St Leger is a former Managing Director of McGraw-Hill Australia, and was President of the Australian Publishers Association in 2009/10. The Chairman of Copyright Agency, Sandy Grant, expressed his gratitude to Murray for his leadership as CEO and Deputy CEO since 2013.
More from Copyright Agency
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Copyright Protection

Russia will deploy "Digital Fingerprinting" to enforce copyright online

Global Voices reports that the Russian Ministry of Communications and Media will create a register containing information about intellectual property rights holders in Russia. This would probably be based on the principle of digital fingerprinting and would be used to track and protect copyrighted files online.

See more from Tetyana Lokot in Global Voices.
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German Minister for Culture calls for better protection of copyright and collective management

The German Minister for Culture and Media, Prof. Monika Grütters, calls for better protection of copyright and collective management. The communiqué (in German) is available here.

Claiming that "artists and creators must live from their work – not just survive", she is asking to, inter alia:

• Strengthen the fight against piracy, especially by introducing a self-committed ban regarding advertising on pirate sites, and accountability of Internet intermediaries.
• Speed up procedures to fix the amount of remuneration for private copying.
• Abandon the idea to abolish territorial restrictions by introducing European-wide licences.
• Encourage e-lending on the basis of self-regulation between libraries and publishers.
• Ensure the role of collective management organisations, including their social and cultural

mission, when implementing the EU Collective Rights Management Directive 2014/26/EU.
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ICLE report : Broad exceptions damage creativity and innovation

A new White Paper issued by International Center for Law & Economics (ICLE) warns that calls for broad "fair use" exceptions can be harmful to consumers around the world by de-incentivising creativity and innovation.

The report, entitled '*Dangerous Exception: the detrimental effects of including "fair use" copyright exceptions in free trade agreements*', argues that minimum standards of copyright protection based on the "3 step test" have been an important part of bilateral trade agreements over the years and that such provisions can enhance trade by improving the clarity of rights of creators and users thereby promoting increased levels of creativity and innovation. It cautions against reference, in up-coming trade agreements such as the Trans-Pacific Partnership (TPP), to US-style exceptions or more specific language, which may not be suitable for countries with different legal systems.

The white paper can be found here.
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EU News

Digital Single Market Strategy - European Commission presents areas of action

In conjunction with an orientation debate on 25 March 2015, the following three main areas of action were presented by the European Commission, while preparing the "Digital Single Market Strategy":

1. Better access for consumers and businesses to digital goods and services
2. Shaping the environment for digital networks and services to flourish
3. Creating a European Digital Economy and Society with long-term growth potential

The Commission also confirmed in its official press release that the comprehensive Digital Single Market Strategy will be unveiled in May 2015. Several Commissioners are part of the Digital Single Market project team. The Commission is also engaging with a wide range of stakeholders in the run up to the Strategy (see the report – join the debate on "Digital4EU").

Furthermore, the Commissioner in charge of competition policy, Margrethe Vestager, announced on 26 March 2015 a forthcoming proposal to launch a competition inquiry in the e-commerce sector. The inquiry will focus on private (in particular: contractual) barriers to cross-border e-commerce in digital content and goods. More information on the sector enquiry is available here.
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556 amendments tabled to the report on the implementation of Directive 2001/29/EC

As previously reported, the European Parliament is currently reviewing through an own-initiative report the implementation of Directive 2001/29/EC (the "Copyright Directive"). The

draft report was prepared by Julia Reda and is currently under discussion at the European Parliament's Legal Affairs Committee, while three other committees have decided to submit an opinion on the report.

Julia Reda has made available on her website the compilation of amendments – 556 in total – that have been tabled by MEPs to the report. These amendments can be downloaded fromhere. All documents related to the process, including the draft report, draft opinions, and amendments tabled to the draft opinions can be found here.

The 556 amendments were considered during the meeting of the Legal Affairs Committee (JURI) on 21 March and, according to the indicative timeline, the report is scheduled to be voted on in Committee on 6 May and in w/c 8 June in plenary session.
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Legislation

South Africa: Government publishes Protection, Promotion, Development and Management of Indigenous Knowledge Systems Bill

The South African Ministry of Science and Technology has published the Protection, Promotion, Development and Management of Indigenous Knowledge Systems Bill, 2014 for public comment. Members of the public and interested parties are invited to submit written comments on this Bill within 60 days from the date of publication (20 March 2015).

Click here for a pdf copy of the bill. Click here for commentary in Afro-IP.
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Australia introduces new online infringement bill

A new Copyright Amendment (Online Infringement) Bill has been introduced to the Australian Parliament this week.

The Bill provides that copyright owners would be able to apply directly to the Federal Court for an injunction to disable access to an infringing online location, without having to first establish the Carriage Service Provider's (CSP) liability for copyright infringement or authorisation of copyright infringement.

The proposed Bill acknowledges the difficulties in taking direct enforcement action against entities operating outside Australia. According to the Explanatory Memorandum, the amendments are intended to create a no-fault remedy against CSPs where they are in a position to address copyright infringement. The Memorandum also states that "Copyright protection provides an essential mechanism for ensuring the viability and success of creative industries by incentivising and rewarding creators. Online copyright infringement poses a significant threat to these incentives and rewards, due to the ease in which copyright material can be copied and shared through digital means without authorisation."

For more information, please see the suggested text of the Bill and the Explanatory Memorandum, which are available here.
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Court cases

CJEU clarifies that live broadcasts on the Internet are not 'communication to the public'; nonetheless, these can be protected on a national level

On 26 March 2015, the EU Court of Justice (CJEU) published its ruling in Case C 279/13, C More Entertainment, a reference for a preliminary ruling from the Supreme Court of Sweden, asking whether EU Member States may give wider protection to the exclusive right of authors by enabling 'communication to the public' to cover a greater range of acts than provided for in Article 3(1) of the Information Society Directive 2001/29/EC.

In the present case, C More Entertainment AB, the CJEU recalled that the exclusive right granted to broadcasters by the Directive only applies if anyone has access to the transmission at a time individually chosen by them. However, this is not the case of live broadcasts on the Internet.

On the other hand, the CJEU noted that, with regard to the nature and extent of the protection which Member States may recognise broadcasting organisations, the Directive does not harmonise any differences between national laws, so it does not preclude more protective provisions:

"Article 3(2) of Directive 2001/29 must be interpreted as not affecting the option open to the Member States, set out in Article 8(3) of Directive 2006/115, read in conjunction with recital 16 to that directive to grant broadcasting organisations the exclusive right to authorise or prohibit acts of communication to the public of their transmissions provided that such protection does not undermine that of copyright". Consequently, Article 3(2) of Directive 2001/29/EC does not preclude national legislation "(…) extending the exclusive right of the broadcasting organisations referred to in Article 3(2)(d) as regards acts of communication to the public which broadcasts of sporting fixtures made live on internet, such as those at issue in the main proceedings, may constitute, provided that such an extension does not undermine the protection of copyright".

The complete decision of the CJEU in Case C 279/13, C More Entertainment AB, is available here.
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CJEU: Member States cannot apply reduced VAT rates to eBooks

The Court of Justice of the European Union (CJEU) issued two decisions on 5 March 2015 related to the application of reduced VAT rates to eBooks in France and Luxembourg. The proceedings originally started in 2013 when the European Commission decided to refer these two Member States to the CJEU for failing to fulfil their obligations under Directive 2006/112/EC of 28 November 2006 on the common system of value added tax (the "VAT Directive") by applying reduced VAT rates to eBooks. The Commission argued that eBooks should be considered as an "electronically provided service" and, as such, could not benefit from reduced VAT rates (5,5% in France and 3% in Luxembourg), these rates resulting in a distortion of competition within the internal market.

In two separate decisions, the CJEU upheld the action of the Commission and confirmed that France and Luxembourg failed to fulfil their obligations.

- In the first case, European Commission v France, the Court emphasised that the goods and services to which a reduced rate can be applied are listed in Annex III to the VAT Directive; regarding books, only the supply of books "on all physical means of support" can be subject to a reduced VAT rate. The Court held that eBooks are excluded from this provision since they are supplied without the physical mean of support enabling consumers to read them:

"Admittedly, in order to be able to read an electronic book, physical support, such as a computer, is required. However such support is not included in the supply of electronic oks."

Furthermore, the Court took the view that the supply of eBooks shall be considered as an "electronically supplied service", these services being specifically excluded from the application of reduced VAT rates in Article 98 of the VAT Directive.

- In the second case, European Commission v Luxembourg, the Court highlighted that Member States, when they want to apply VAT rates lower than 5%, need to ensure that these rates comply with EU legislation; the CJEU then drew the same conclusions as in the first case and confirmed the exclusion of eBooks from the goods and services benefitting from reduced VAT rates:

"The application of a reduced rate of VAT to the supply of electronic books does not comply with Article 98(2) of the VAT Directive. In those circumstances, without there being any need to consider whether the other conditions set out in Article 110 of that directive are met, the derogation provided for by the latter provision cannot justify the application by the Grand Duchy of Luxembourg of a reduced VAT rate of 3% to the supply of electronic books."

The two decisions can be found here and here and the CJEU press release here.
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CJEU clarifies, in Copydan Båndkopi v. Nokia, that Nokia is obliged to pay DKK 14.8 million in private copying levies

On 5 March 2015, the Court of Justice of the European Union (CJEU) published its decision in Case C 463/12, Copydan Båndkopi v. Nokia Danmark A/S, following a request for a preliminary ruling from the Østre Landsret (Denmark), concerning the interpretation of Articles 5(2)(b) and 6 of EU Directive 2001/29/EC.

In a nutshell, Copydan Båndkopi asked Nokia to pay a private copying levy for the reproduction of music and videos over memory cards for mobile phones imported and marketed in Denmark between 2004 and 2009. Litigation ensued over Nokia's refusal.

Following the Advocate General's Opinion (IFRRO reported about it here), the CJEU now decided as follows:

1. Article 5(2)(b) of Directive 2001/29/EC does not preclude national legislation which provides that fair compensation is to be paid, in respect of multifunctional media such as mobile telephone memory cards, irrespective of whether the main function of such media is to make such copies, provided that one of the functions of the media – be it merely an ancillary function – enables the operator to use them for that purpose. However, in so far as the prejudice to the rightholder may be regarded as minimal, the making available of such a function need not give rise to an obligation to pay fair compensation.

2. Article 5(2)(b) of Directive 2001/29 does not preclude national legislation which makes the supply of media that may be used for copying for private use, such as mobile telephone memory cards, subject to the levy, but does not make the supply of components whose main purpose is to store copies for private use, such as the internal memories of MP3 players, subject to that levy, provided that those different categories of media and components are not comparable or the different treatment they receive is justified.

3. Article 5(2)(b) of Directive 2001/29 must be interpreted as not precluding national legislation which requires payment of the levy intended to finance fair compensation by producers and importers who sell mobile telephone memory cards to business customers and are aware that those cards will be sold on by those customers but do not know whether the final purchasers of the cards will be individuals or business customers, on condition that:

- the introduction of such a system is justified by practical difficulties;
- the persons responsible for payment are exempt from the levy if they can establish that they have supplied the mobile telephone memory cards to persons other than natural persons for purposes clearly unrelated to copying for private use;
- the system provides for a right to reimbursement of that levy which is effective and does not make it excessively difficult to repay the levy and only the final purchaser of such a memory card may obtain reimbursement by submitting an appropriate application to that organisation.

4. Article 5(2)(b) of Directive 2001/29, read in the light of Recital 35, must be interpreted as permitting the Member States to provide, in certain cases covered by the exception to the reproduction right for copies for private use, for an exemption from the requirement under that exception to pay fair compensation, provided that the prejudice caused to rightholders in such cases is minimal. That threshold must, inter alia, be applied in a manner consistent with the principle of equal treatment.

5. Directive 2001/29 is to be interpreted as meaning that, where a Member State has decided, pursuant to Article 5(2), to exclude, from the scope of that provision, any right for rightholders to authorise reproduction of their works for private use, any authorisation given by a rightholder for the use of files containing his works can have no bearing on the fair compensation payable under Article 5(2)(b), for reproductions made with the aid of such files; it cannot, of itself, give rise to an obligation on the part of the user of the files concerned to pay remuneration to the rightholder.

6. The implementation of technological measures under Article 6 of Directive 2001/29 for devices used to reproduce protected works, such as DVDs, CDs, MP3 players and computers, can have no effect on the requirement to pay fair compensation in accordance with the exception to the reproduction right in respect of reproductions made for private use by means of such devices. However, the implementation of such measures may have an effect on the actual level of the compensation.

7. Directive 2001/29 precludes national legislation which provides for fair compensation, in accordance with the exception to the reproduction right, in respect of reproductions made using unlawful sources, i.e. from protected works which are made available to the public without the rightholder’s consent.

8. Directive 2001/29 does not preclude national legislation which provides for fair compensation in respect of reproductions of protected works made by a natural person by or with the aid of a device which belongs to a third party.

The complete decision of the CJEU is available here.
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CJEU clarifies that EU Member States are free to determine whether the seller or the buyer is liable for paying the resale right royalty

On 26 February 2015, the Court of Justice of the European Union (CJEU) issued its judgment in Case C-41/14 Christie's France, a reference for a preliminary ruling from France, seeking clarification as regards the artist's resale right (*droit de suite*) within the Resale Right Directive 2001/84/EC.

As stated in the official press release, the CJEU held that the cost of the royalty that has to be paid to the author on any resale of a work of art by an art market professional may be borne, definitively, by the seller or the buyer. It is up to the Member States alone to determine who is liable for paying the droit de suite royalty:

“Although Directive 2001/84 provides that the person by whom the royalty is payable is, in principle, the seller, it none the less allows for a derogation from that rule and thus leaves the Member States at liberty to specify another person from among the professional persons referred to in the Directive who, alone or with the seller, will assume liability for the payment of the royalty. The person who has been designated in that way by national law as the person by whom the royalty is payable may agree with any other person, including the buyer, that that other person will definitively bear, in whole or in part, the cost of the royalty, provided that a contractual arrangement of that kind does not affect the obligations and liability which the person by whom the royalty is payable has towards the author”.

The CJEU also highlighted that this does not exclude the possibility that a derogation (from the rule that the person by whom the royalty is payable is, in principle, the seller) may, to some extent, have a distorting effect on the functioning of the internal market. However, according to the CJEU, “such an effect is only indirect since it arises as a result of contractual arrangements that are independent of the payment of the royalty to the author, for which the person by whom the royalty is payable remains liable”.
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Value of Copyright

IP Protection is Key to U.S. Job Creation

According to an article by Dr. Kristina Lybecker in IP Watchdog, young start-up companies and especially IP intensive ones are the key to job creation in the US.

Drawing on two studies, one in 2013 and the other in 2010, Lybecker notes that although startup firms account for a mere three percent of U.S. employment, they are responsible for almost 20 percent of gross job creation and that evidence suggests that intellectual property (IP) intensive industries are critical to economic growth.

See full article here
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UK: new study examines the important contribution of creative industries to the economy and society

The outcome of a study made by the UK Warwick Commission on the Future of Cultural Value published in February 2015 has confirmed the findings of previous studies: the creative industries contribute significantly to the UK's economy and employment, and the share of the sector in the overall GDP is growing.

As outlined in the introduction of the study, a total of 1.7 million people work in the creative industries: "*together they contribute almost £77bn in value added, equivalent to 5.0% of the economy. The latest Department for Culture, Media and Sport estimates show that they grew by 9.9% in 2013, higher than any other sector. Allowing for the contribution of creative talent outside the creative industries, the creative economy's share may be approaching one-tenth of UK's economy*". IFRRO had already reported about the contribution of creative industries and within them, of the publishing sector, to the UK economy.

The study also measured the benefits of the creative industries for the British society and engagement in cultural activities; according to the latest figures, it seems that the gap between those enjoying culture and those who do not has widened over the last years, leading to a disproportion in the participation in cultural activities: "the wealthiest, better educated and least ethnically diverse 8% of the population forms the most culturally active segment of all: between 2012 and 2015 they accounted (in the most conservative estimate possible) for at least 28% of live attendance to theatre", with similar results for attendance of live music or visits to visual arts exhibitions.

In the education, attendance of some art classes has fallen: "between 2003 and 2013 there was a 50% drop in the GCSE numbers for design and technology, 23% for drama and 25% for other craft-related subjects." At the same time, other subjects such as Media and Film have experienced a substantial growth in the number of pupils attending classes.

Find the report here and an article in the Guardian here.
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Creator and Publisher Associations

Jens Bammel to move on from IPA

Jens Bammel has announced that he will leave his position as Secretary General of the International Publishers Association before the 2015 Frankfurt Book Fair. Jens is an international lawyer who worked for the UK Periodical Publishers Association and the Publishers Licensing Society before joining IPA in 2003. He served on the IFRRO Board member from 2003 to 2012, first as a substitute Director and then as a full Director representing Creator and Publisher Association members. He was also a member of the IFRRO European Group and Membership Committee.

Olav Stokkmo commented: “We will miss Jens. He has been an indefatigable champion of copyright and a valuable member of the IFRRO community. We wish him well in the future.”
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Publishers call for copyright protection and freedom of expression

The 30th International Publishers Congress, in Bangkok, concluded with a series of calls for copyright protection, improved book policies and protection of freedom of expression.

Click here for the full press release
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#CopyrightForFreedom - FEP launch call to recognise Copyright as guarantee for Freedom of Expression

At the 2015 Paris Book Fair the Federation of European Publisher has appealed to the publishing world to rally round the theme that freedom of expression is upheld by a sensible copyright system, which allows the literary ecosystem to flourish.

The appeal, using the hashtag #CopyrightForFreedom ,was launched during a debate entitled “Does Europe still believe in its culture” as a reminder to everyone of the importance of freedom of expression. It is made in the context of the draft report to the European Parliament of German Pirate Party MEP Julia Reda and emphasizes that freedom of expression does not mean copying the works of others. Freedom of expression means being free to write, free to publish, free to be a book-seller, free to choose what to say and what to read.

For full statement click here
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ALCS launches "Wise up to Copyright"

The UK Authors' Licensing and Collecting Society (ALCS) has launched a resource to make authors aware of the main principle that enables them to make a living - namely copyright.

The webpage gives information about copyright and how it benefits writers, how they can maximise their income and where they can go for help.
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GAG, ASMP, APA join organisations in protesting against US College Art Association's “Code of Best Practices in Fair Use”

The Graphic Artists Guild (GAG), together with National Press Photographers Association (NPPA), American Photographic Artists (APA), American Society of Media Photographers (ASMP), PACA Digital Media Licensing Association, and Professional Photographers of America (PPA), has published a letter addressing concerns with the US College Art Association’s “Code of Best Practices in Fair Use for the Visual Arts.”

Specifically, the letter contests a major conclusion of the study that “copyright acts primarily as a barrier, encouraging self-censorship; and that artists are in an adversarial relationship with the marketplace.” The letter points out that artists only seek fair compensation for their work, and that the study fails to educate its audience on options for licensing work. The letter also notes that the study does not address commercial applications of fair use made by

museums and non-profits in the creation of objects and coffee table books for sale. Lastly, the letter expresses the dismay of the organizations that none were invited to participate in the study groups leading up to the creation of the Code.

Some of the weaknesses identified in the study include incorrect assumptions of industry practices, misplaced recommendations and the inclusion of personal opinion as factual information. The letter concludes that “Without participation from all of the stakeholders in the visual arts community there can be no consensus, let alone a set of 'Best Practices in Fair Use for the Visual Arts'. As developed, rather than 'providing a practical and reliable way of applying' copyright law and fair use, the document creates far more misconceptions than it resolves and encourages misappropriation of copyrighted work rather than the practice of due diligence and licensing.”

The full text of the letter can be read here. The code of practice is here
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Chair of the Book Publishers Association of Israel comments on current situation in the country

Racheli Edelman, Chair of the Book Publishers Association of Israel (BPAI), a member of IFRRO, has given an interview to the International Publishers Association on the current situation in Israel with respect to book publishing and collective management of rights.

She indicates that following the adoption of a fixed book price law in 2014, it took some months for the market to adapt to the new legislation and it seems now that users have access to a wider choice of books than before. Regarding secondary uses of copyright-protected works in Israel and in particular in the education, Ms. Edelman recalls that educational institutions continue to “scan and photocopy without permission or without paying the copyright owners”. Attempts to sign a licence with the Ministry of Education and with universities have not succeeded so far, and the Israeli rightholders are now looking forward to the revision in 2017 of a private settlement agreement signed by two publishers and the Hebrew University to renegotiate a proper remuneration for the copying of works.

Olav Stokkmo, Chief Executive of IFRRO, commented on the use of copyright-protected works in educational institutions, drawing attention to the fact that “s*uch uses are being authorised in many countries throughout the world through RROs, to the benefit of both authors and publishers, users and society*” and therefore emphasising that “*the situation in Israel could be greatly improved by establishing a RRO*”. Following the successful seminar organised in Jerusalem by the BPAI and IFRRO at the beginning of February 2015, IFRRO will continue to support the work of Israeli rightholders to establish a RRO and licence the uses of copyright-protected works.

Find here Racheli Edelman’s interview and here an article on the BPAI - IFRRO 2015 seminar in Jerusalem.
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