

Ordinance on certain rights regarding intellectual property (IPO)

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adopted on 30 January 1996 ¹

Pursuant to the agreement closed on 2 May 1992 on the European Economic Area (EEA), state gazette 1995, no. 68, (in particular annex XVII), and the agreement of 15 April 1994 on trade-related aspects of industrial property rights (TRIPS), as well as section 66, paragraph 2 of the Act of 26 October 1928 on literary and artistic copyright (CA), state gazette 1928, no. 12, and of article 26 of the Act of 22 October 1992 against unfair competition (UCA), state gazette 1992, no. 121, the government decrees:

I. General Provisions ➔

Art. 1. Purpose

This regulation settles the application of certain industrial property rights in the sphere of copyright and topographies of semiconductor products.

II. Copyright ➔

A. Literary and Artistic Works ➔

1. General Provisions

Art. 2. Broadcasting rights

1) Art. 12, paragraph 2 CA also applies to the public satellite reproduction of works protected under the Copyright Act.

2) Any assignment of this right can be implemented by contract only.

Art. 4. Leasing and distribution rights

1) Art. 12, paragraph 1 LAC also includes the right to grant leasing and distribution.

2) Whoever hires out or distributes copies of literary and artistic works shall owe the author

or creator reasonable compensation.

3) Distribution via public institutions as well as educational and research institutes is without compensation, provided they are not requesting any payment exceeding their administrative expenses.

4) This provision does not apply to buildings and works of the applied arts.

2. Computer Programmes

Art. 5. Protection of computer programmes

1) Pursuant to Art. 1 CA computer programmes and the project material for their development are also considered literary and artistic works.

2) Any person entitled to use a copy of the programme is permitted to do the following without consent by the title holder:

a) correct programme errors;

b) produce a safety copy;

c) test the programme;

d) decompiling pursuant to Art. 6 Ruling 91/250/EU of 14 May 1991 (EEA-Statute Book: annex XVII – 5.01).

3) Contractual provisions contradicting paragraph 2 lit. b, c and d shall be invalid.

4) If an author has sold a computer programme or has given his content to such sale, this programme may be used or re-sold, but not re-let.

***B. Related Rights* ➔**

Art. 6. Protection

1) Irrespective of their wording, related rights have the benefit of being protected under Art. 4 CA. They include:

a) the rights of performing artists;

b) the rights of producers of sound recordings and sound-image recordings;

c) the rights of producers of first-time recordings of films;

d) the rights of broadcasting corporations.

2) The restrictions pursuant to Art. 22 to 35 CA are to be applied mutatis mutandis.

Art. 7. Rights of performing artists

1) Performing artists have the exclusive right:

- a) to permit or forbid recordings of their performances;
- b) to permit or forbid the duplication of recordings of their performances;
- c) to permit or forbid the direct and live public reproduction, also in form of wireless radio broadcasts;
- d) to rent out, lend, or otherwise circulate recordings of their performances.

2) If performing artists enter into a contract on the production of a film with a film producer, it is assumed that the rights pursuant to paragraph 1 lit. d are assigned to the film producer.

Art. 8. Rights of producers of sound recordings and sound-image recordings

The producers of sound recordings and sound-image recordings have the exclusive right:

- a) to permit or forbid the reproduction of their sound recordings;
- b) to rent out, lend, or otherwise circulate their sound recordings.

Art. 9. Rights of producers of first-time recordings of films

The producers of first-time recordings of films have the exclusive right:

- a) to permit or forbid recordings of their broadcasts, notwithstanding the type of transmission;
- b) to permit or forbid the duplication of the recordings of their broadcasts pursuant to lit. a;
- c) to permit or forbid the wireless distribution as well as the public reproduction of their broadcasts in places accessible to the public against payment of an entry fee;
- d) to permit or forbid the distribution of recordings of their broadcasts.

2) Cable companies who are solely transmitting the broadcasts of other broadcasting corporations, are not entitled to the right pursuant to paragraph 1 lit. a.

Art. 11. Cable transmission

Foreign radio broadcasts may be used for the simultaneous, entire and unaltered transmission by means of cable. The broadcasting corporation is entitled to receive proper compensation for doing so.

Art. 12. Compulsory compensation

1) Whoever hires out or distributes elaborations of related rights, owes the performing artist proper compensation for doing so.

2) Distribution via public institutions as well as educational and research institutes is without

compensation, provided they are not requesting any payment exceeding their administrative expenses.

Art. 13. Duration of protection

1) The rights of performing artists shall lapse fifty years after the performance. If, however, within this period of time a recording of the performance is published with permission or publicly performed with permission, these rights shall lapse fifty years after the respective first publication or first public performance, depending on which event has taken place first.

2) The rights of producers of sound recordings shall lapse fifty years after the recording. If, however, within this period of time the sound recording is published with permission or publicly played back with permission, these rights shall lapse fifty years after the respective first publication or first public playback, depending on which event has taken place first.

3) The rights of producers of a first-time film recording shall lapse fifty years after the recording. If, however, within this period of time the film is published with permission or publicly played back with permission, these rights shall lapse fifty years after the respective first publication or first public performance, depending on which event has taken place first.

4) The rights of broadcasting corporations shall lapse fifty years after the first broadcast, irrespective of whether this concerns wireless or wire-bound broadcasts, or broadcasts via cable or satellite.

C. Legal Protection ➔

Art. 14. Remittal

Legal protection pursuant to Art. 42 to 59 CA is to be applied mutatis mutandis to the intellectual property rights in the field of copyright and topographies of semiconductor products (Art. 1).

III. Topographies ➔

Art. 15. Principle

1) Pursuant to Art. 5 lit c UCA protection applies also to three-dimensional structures of semiconductor products (topographies), including their components and designs, irrespective of the type of their definition or coding, unless they are customary.

2) Topographies of customary components are also protected, provided their selection or arrangement is not customary.

Art. 16. Title holder

Acquisition of title is ruled by Section 1173a Art. 41 Civil Code.

Art. 17. Duration of Protection

1) Protection for the topography shall lapse ten years after the day on which the topography was first distributed.

2) Protection shall lapse in any case fifteen years after the development of the topography.

3) The duration of the protection shall be calculated from 31st December of the year in which the topography was first distributed.

Art. 18. Legal Protection

Legal protection is governed by Art. 22 to 25 UCA.

IV. Measures for Import and Export ➔

Art. 19. Measures for Import and Export

Measures for import and export are governed by the respective provisions of the Act concerning the protection of trademarks and geographical indications, and are to be applied in particular to

- a) the request for assistance,
- b) the information about suspicious consignments, and
- c) the retention of goods.

V. Transitional and Final Provisions

Art. 20. Transitional Provisions

Pendant proceedings shall be judged pursuant to previous law.

Art. 21. Entry into Force

- 1) Subject to paragraph 2 this regulation shall enter into force on the day of its publication.
- 2) Art. 19 shall enter into force at the same time as the Act on the protection of trademarks and geographical indications.

Princely Government:

Signed Dr. Mario Frick

Head of the Princely Government

1: This Ordinance had been notified to WIPO as "Ordinance on the introduction of certain Intellectual Property Rights" ➔
