



INTERNATIONAL
HELLENIC
UNIVERSITY

E-Museums and Intellectual Property Rights: Digitization and The Law

Eleni- Christina Kotoula

SCHOOL OF ECONOMICS, BUSINESS ADMINISTRATION & LEGAL STUDIES

A thesis submitted for the degree of

Master of Arts (MA) in Art, Law and Economy

January 2016

Thessaloniki – Greece

Student Name: Eleni- Christina Kotoula
SID: 2202140005
Supervisor: Prof. Marc Weber

I hereby declare that the work submitted is mine and that where I have made use of another's work, I have attributed the source(s) according to the Regulations set in the Student's Handbook.

January 2016
Thessaloniki - Greece

Abstract

This dissertation was written as part of the MA in Art, Law and Economy at the International Hellenic University.

This Master Thesis was created in order to discover, analyze and in general follow the trends of Intellectual property Rights law regarding the electronic museum. Up to date there are a lot of professionals dealing with intellectual property rights and especially copyright law regarding actual museums. However in the rapidly changing environment that the global economy, politics and technology indicates, the need for a specialist on digital matters concerning arts and culture rises and becomes competitive and demanding. This dissertation examines all aspects of the Greek Copyright Law applied to certain categories of artefacts that exist in an e-museum environment and moreover provides a basic knowledge on the digitalization procedures, ways and methods. Starting from the terminology concerning an e-museum, it continues up to the technological issues, such as the digitization at a basic level and finally blooms up on the most important matter, this of the applicable law and the fashion in which it becomes applicable in every single occasion through a fictional case created to explain the basic issues of copyright infringement. More specifically the issues examined are anything that can be digitized creating an image, audiovisual works and databases. The main question is if the same existing law can be mutually applicable in every single creation and whether there are loopholes or not, providing, at the end, propositions of bettering these situations and softening them for the professionals to take advantage of properly. The initial thought is that by examining these kind of issues, a case law example is generated and then analyzed, creating a handbook for future students- and professors for that matter, to use.

Acknowledgements

Finally I would kindly like to express my sincere gratitude to my supervisor Prof. Marc Weber for his guidance throughout my research on this thesis, his patience, motivation and immense knowledge on the subject. Moreover and besides my supervisor I would like to thank Dr. Dimitris Tsipotas for his inspiring and insightful words which in the first place brought me before considering the subject of this thesis and Prof. Georgios Papaioannou, without the encouragement of which I would not have reached as far my studies and whom I respectfully consider my mentor throughout my Bachelor degree. Last but not least I would like to thank my parents and partner for mentally and spiritually supporting me throughout writing this thesis and my life in general.

Keywords: e-museums, copyright, photographs, audiovisual works, database

Eleni- Christina Kotoula

01-01-2016

Preface

The classical notion of the museum as a site of assortment, collection, preservation and management of cultural documents, history and the natural world is nowadays changing due to the modern and constantly evolving technology.

Since 1794, the year that the Conservatoire National des Arts et Métiers was founded in Paris and until the early 20th century that the Deutsches Museum was founded in Munich, the role of the museum remained stable. An educating, cultural, social and recreational role, holding the predominant mode of disseminating knowledge to the widest possible public.

The Palais de la Decouverte in France was the first institution that has avoided the designation "Museum", gave priority to the artifacts-public interaction, along with the guests-objects connection via information.

At this point in time the new technology and data processing offered new possibilities to the museum regarding the documentation, management and presentation of their collections at the museum visitors. That way the "new" museum on the internet, called "electronic", was born and presented to the public.

The online museum gave new dimensions to the real. New terminology appeared – one compatible with the internet, new category of museums was created- exclusively on the Internet and new questions about the role of the museum in culture and society were raised. One of these issues was the protection of intellectual property of the museum as such along with its contents as part of the internet. This is because the infringement of copyright today is easier and quicker due to the global spread of technology.

In this framework we will attempt to outline the 'New' concepts of the museum, to examine the electronic version and finally to shed light onto the risen cases of copyright infringement on the Internet.

Contents

ABSTRACT.....	II
PREFACE.....	IV
CONTENTS.....	V
INTRODUCTION.....	1
I. CHAPTER ONE: E-MUSEUMS.....	3
<u>1. DEFINITION.....</u>	3
<u>2. CHARACTERISTICS.....</u>	4
<i>a) Connectedness.....</i>	4
<i>b) Virtualization.....</i>	5
<i>c) The digital entity.....</i>	5
<i>d) Availability/Accessibility.....</i>	6
<i>e) Flexibility.....</i>	6
<i>f) The communicative character.....</i>	7
<i>g) The democratic participation.....</i>	7
<i>h) Educationalism.....</i>	7
<u>3. METADATA.....</u>	8
<u>4. DESCRIBING MATERIAL STANDARDS.....</u>	9
<i>a) CIDOC CRM Cultural Information Metadata Standard.....</i>	10
<i>b) Multimedia Content Description Standard MPEG-7.....</i>	11
<i>c) Categories Standard for the Description of Works of Art (CDWA).....</i>	12
<i>d) The VRA Core Record Standard/Visual Resources Association Core Record.....</i>	13

e) <i>Object ID Standard</i>	14
f) <i>Standards Combination as a New Trend</i>	15
II. CHAPTER TWO: INTELLECTUAL PROPERTY RIGHTS (GREEK COPYRIGHT LAW)	16
<u>1. COPYRIGHT</u>	16
a) <i>WIPO</i>	18
b) <i>European Union Protection</i>	19
c) <i>Protection under the Greek Copyright Law</i>	20
<u>2. THE CATEGORIZATION IN THE DIGITAL WORK AND THE COPYRIGHT ISSUE</u>	21
a) <i>Economic Right</i>	22
b) <i>Moral Right</i>	22
c) <i>The issue of the Author of the Digital Work in an E-Museum</i>	23
<u>3. DATABASES</u>	23
<u>4. PHOTOGRAPHS</u>	25
<u>5. AUDIOVISUAL WORKS</u>	28
<u>6. SANCTIONS AND DURATION</u>	29
III. CHAPTER THREE: A SIMPLE AND FICTIONAL CASE REGARDING DATABASES, PHOTOGRAPHS AND AUDIOVISUAL WORKS	30
IV. CONCLUSIONS	38
V. BIBLIOGRAPHY	39
a) <i>Foreign Bibliography</i>	39
b) <i>Greek Bibliography</i>	41
c) <i>Internet sources</i>	45

VI. APPENDIX (Law 2121/1993 Greek Copyright Law)¹.....46

¹ Downloaded from <http://www.opi.gr/>.

Introduction

In the era of digital culture, the conveyance of an actual museum on the Web causes and involves changes to its role and significance. The modern trend of museology transforms the classic concept of the museum and focuses on the concentration of knowledge and information using the potential of the Internet. Thus, the role, the significance and the function of the museum are redefined², new terminology able to meet the requirements of the internet is created and, furthermore, museums exclusively online which are unrelated to real museums, but work and function exclusively online appear.

In contrast to the commonly accepted definition for the conventional museum, the museum presence on the web is defined and described in "new" terms that create new impressions and meanings notably relating museums with modern technology. In fact, these terms are used both to denote the online presence of the already existing museums and to state museums that exist only online.

As is evident, the digital museum presence is attributed and described in terms which refer to the current notions on technical possibilities and at the same time in the virtual entity of the internet. Thus, a variety of terms and concepts is produced and used, fact that creates ambiguity and uncertainty about their meaning and use.

The aforementioned new terms which characterize the museum web presence are mainly the following:

Digital Museum. The term focuses on the digitization of the museum data and their conversion into an electronic form, as a possibility of the technology and, moreover, on the integration of the museum objects in their "original" environment³.

² Daskalopoulou, Bounia, 2008, page 30, Greek version.

³ Arvanitis, 2004, pages 183-192, Greek version.

e- Museum. The term focuses on the electronic form of the word "museum" by following the modern way of expressing other words or concepts as well, such as e- mail, e- commerce, e- signature, e- Banking, e- learning⁴.

Cyber museum. The term refers to the information technology status of the museum presence in cyberspace rather than in the physical substance of a museum⁵.

Virtual museum. It is the most commonly used term and refers to both the technical possibilities and to the contradistinction of the museum on the internet with the actual one. The term emphasizes the controversy (which is inherent in the word), and is mainly used by those who believe in the enormous educational possibilities that a museum on the internet could provide to the public⁶.

Network museum. The term refers to the possibility of collecting information, the dynamic transmission of it and the ability of developing a link over the visitor with the museum⁷.

On- line museum. The term refers to both the medium (the Internet) with which the communication becomes reality and to the combination of the possibilities offered by modern technology⁸.

In an effort to try and annotate or interpret these terms one can be led to conclude that all the terms are based on the concentration of digital museum data (or information) to a collection accessible via the Internet, giving, thus, the opportunity of connecting and interconnecting data with other data utilizing the capabilities of modern and constantly evolving technology. Therefore, the issue is about a museum of modern electronic age, or otherwise, an electronic museum.

⁴ Knell, 2003.

⁵ Gibson, Nevromantis, translation Stamatiadis, Athens, 1998.

⁶ Hoptman, in Barrett E., 1992.

⁷ Daskalopoulou, Bounia, 2008, page 30, Greek version.

⁸ Daskalopoulou, Bounia, 2008, page 30, Greek version.

I. CHAPTER ONE: E-MUSEUMS

In the recent years, the studies which aimed towards researching the fields of art, museums and the information science, appointed as well the concept of the term “e-museum”⁹.

1. DEFINITION

The main definitions created, were each time based on different criteria. Using as a criterion the contrast existing between a real museum and an e-museum (regarding the actual and the digital object)¹⁰, an e-museum is a collection of digitally recorded images, audio files, documents and other historical, scientific or of cultural interest data that are accessible electronically. The e-museum does not house real objects and so it lacks permanency and unique qualities, otherwise available in a conventional museum. Using as a criterion the possibility of digitizing an object¹¹, an e-museum is the organized collection of electronic artifacts and informational sources- as actually anything can be digitized. The collection may include paintings, drawings, photographs, charts, graphics, recordings, clips, videos, newspaper articles, interview transcripts, numerical databases and a multitude of objects that can be stored on the file server of the e-museum. It may also include suggestions for resources related to museum topics. Using as a criterion the dialogue development and the museum interaction with its visitors¹², an e-museum is the collection of digital objects that provides the ability of connection and access beyond the traditional conditions of communication, dissemination of information and interaction between the museum and the visitor.

Based on the above definitions, taking advantage of their used criteria and taking as well into account the network entity, the communication and the dialectic relationship of the museum with the global community, one can now give the following definition:

⁹ Spadaccini, 2006 p. 35.

¹⁰ Lewis, 1996.

¹¹ Mc Kenzie, 1998, <http://vads.ahds.ac.uk/guides/creatingguide/contents.html> .

¹² Andrews, Schweibenz, 1998

<http://is.uni-sb.de/projecte/sonstige/museum/Kressvirtualmuseum.html>.

Schweinbenz, 1998, available online.

“On- line museum is the network entity which has got its own, independent, identity and its own content divided wisely into individual subject categories, establishes se-mantic links between thematically linked on- line information sources, promotes the connection of objects, information and visitors, enriching the knowledge through utilizing the technology and gives voice to communities in the terms of global communications and the Information Society”.

2. CHARACTERISTICS

Based on the definition one could try to record and analyze the main features of the electronic museum.

a) Connectedness¹³

Connectedness is a key feature of the e-museum and it means so much the ability of linking objects (and the information that connect them) together, as – mainly, the opportunity of developing a dialogue between the museum and its visitors. The connectedness allows the museum to share the traditional roles of gathering and interpreting information / data, with its visitors and thus provides information that is not filtered by traditional methods. Connectedness is implemented through media use, such as text, image, video, audio, and a variety of ways, such as digital representation of artworks created by an artist - with simultaneous presentation of works created by other artists who influenced the first, or presenting works of the same or another period, of other geographical areas which are presented in conventional or electronic museums.

¹³ Hopman, page 146.

Daskalopoulou, Bounia, 2008, page 34, Greek version.

b) Virtualization

Virtualization constitutes a feature and the most popular museum description provided on the Internet as well. The term includes the technical possibilities of creating a virtual reality, but also includes the concept of virtual as unreal¹⁴. That concludes to the fact that the virtualization as a feature of the museum web presence relates both to the virtual environment and the interpretation of the term 'virtual'. Virtual environment¹⁵ is the space created by using three-dimensional graphics, where the visitor can wander as in a conventional museum. In this case, virtualization includes multimedia, graphics and hypermedia, refers to the nature of the museum as an Internet service and emphasizes the difference between the real and the digital world. Virtualization as aforementioned concerns and refers to the interpretation of the term virtual as unreal (imaginary) or, otherwise, to the contrast of the e-museum with the real, conventional one¹⁶. This just might mean that a virtual museum cannot exist in reality. It is because the interpretation of the term “virtualization” regarding the museum presence is linked to the question, the possible lack of material and the authenticity of the object, that it became the subject of particular speculation and research and led to a redefinition of the concepts “real”, “virtual”, “authentic” and “fake”. It is worth noting that for the definition and concept of the term “virtualization” it should be as well taken into account the "complex reality of cultural objects"¹⁷.

c) The digital entity

The online museum is a digital presence and existence. Namely, it has got digital substance¹⁸ and there exists – due to the technology of virtual reality, online. That is the way in which the modern Internet technology creates digital projects that can be museums as well. These digital works are independent entities / intellectual property objects and produce copyright protected by the law.

¹⁴ Bounia, Myrivili, 2006, pages 25-27.

¹⁵ Dimitropoulos K., 2006, (in Greek).

¹⁶ Lewis, 1996.

Daskalopoulou, Bounia, 2008, page 37, Greek version.

¹⁷ Daskalopoulou, Bounia, 2008, page 40, Greek version.

¹⁸ Daskalopoulou, Bounia, 2008, page 32, Greek version.

Manitsaris, Alexandropoulou, et al., 2008, p.602.

d) The availability / accessibility

The online museum is constantly available to anyone who has a computer and a connection. The above continuous access creates a basis for a continuous renewal and an open dialogue of visitors towards the museum. Moreover, the dialog provides information and interpretations that lead to new expression and creation, but also to the cooperation of virtual communities and- furthermore, museums and social groups¹⁹. In addition, the use of the Internet and the virtual reality applications provide and permit the most remote access from all users and build, in this fashion, space and time independence, fact that serves the purpose of the museum which is the dissemination of knowledge and breadth of learning²⁰.

e) Flexibility

As a result of the availability and accessibility comes the flexibility that distinguishes the e-museum. The internet is constantly changing and that change is exacerbated by the constantly evolving use of new technology. This change is monitored and followed by the e-museum, creating new shapes and new communities which explore new cultural collections and emerging issues on the Internet and are mostly led to new cultural readings²¹. The ability of the Internet to promote this process through blogs, wikis and other technological means meets the legitimate concerns of coherent cultural organizations which consider, however, the case of cooperating with such professional, virtual, on- line communities in order to broaden the role of the museum²².

¹⁹ Walsh, 1997 <http://www.archimuse.com/mw97/speak/walsh.htm> .

Kenderdine, 1996.

Witcomb, 2003.

²⁰ Manitsaris, Alexandropoulou, et al., 2008, p.596.

²¹ Hazan, 2004, http://www.digicult.info/downloads/digicult_thematicissue5_january2004.pdf .

Kavakli, Bakogianni, 2003, pages 850-857.

²² Spadaccini, 2006, pages 35-38.

f) The communicative character

The aforementioned features and especially the connectivity and the availability attach the communicative character to the electronic museum. Communication is developed not only among the museum and its visitors, but between the visitors as well. The Communication produces dialogue and the dialog brings the diversity in ideas, expressions and interpretations of cultural events²³.

g) The democratic participation

The online museum wants the user to create, to form communities, to converse amongst them, to explore collections, to interpret and add their knowledge to the museum. The e-museum asks for contact, exchange, participation of the user giving them voice to elicit new interpretations regarding objects. So in the long run it becomes the place where users / visitors are active participants and not passive consumers²⁴. It is exactly this participation that forms the basis of democracy on the web space and the “space” of the e-museum. It is worth noting that nowadays, to the interpretative communities of the e-museum are involved not only the electronic visitors but real visitors of the real museum that corresponds to the e-museum as well²⁵.

h) Educationalism

The online museum can contain and provide rich educational material to its visitors who may be the world public. In modern times, when new technologies are used for educational purposes, electronic museums offer a wealth of information and opportunities to create different meanings or interpretations thereby enhancing their educational and pedagogical aspects²⁶. The internet becomes a place where objects are not only images and information but an opportunity for giving

²³ Hazan, 2004, http://www.digicult.info/downloads/digicult_thematicissue5_january2004.pdf.

²⁴ Daskalopoulou, Bounia, 2008, page 43, Greek version.

²⁵ Galani, Chalmers, 2007.

²⁶ Daskalopoulou, Bounia, 2008, page 45, Greek version.

fresh meanings through new interpretative approach and new findings. To this point education and pedagogics encounter the freedom of every guest as well. Apart from these educational abilities, the electronic museum is itself a creative result of creative technology and therefore offers creative (constructivist²⁷)²⁸ learning and education. The multisensory fashion in which it becomes addressed to the visitor enlarges learning and directs it to “multiple intelligences”²⁹. In fact the educational effect is intensified by the fact that every guest is facilitated to carve their own path and to link their own information.

3. METADATA

Multimedia technology offers new and varied possibilities for the emergence and diversification of museum collections. The use of digital image for displaying high quality digital video, audio, graphics and animation³⁰ has as a result the original production of museum digital collection and its disposal through the internet. Indeed, the above original production raises questions concerning the area of intellectual property.

Apart from the above creation of the original works of a digital museum collection, the possibility of synthesizing parts of the digital (or other digital museum projects as well) project leads to the creation of a likewise original work also producing new rights.

Besides the museum collections, other collections from institutions, organizations and other sectors - responsible for managing objects - can be expressed and made available digitally, giving so the opportunity to create spaces of subsidiary education³¹.

²⁷ For more information on the term **constructivism** please see [https://en.wikipedia.org/wiki/Constructivism_\(philosophy_of_education\)](https://en.wikipedia.org/wiki/Constructivism_(philosophy_of_education)).

²⁸ Daskalopoulou, Bounia, 2008, page 45, Greek version.

²⁹ Daskalopoulou, Bounia, 2008, page 45, Greek version.

³⁰ Economou, 2004, (In Greek).

³¹ Hunter, 2002.

Davis, Trant, Van der Starre, 1996. <http://www.willpowerinfo.myby.co.uk/cidoc/introtomultimediamuseums.pdf>.

Per the above composition, combination and multimedia reuse (involving museum collections) can produce complex reports and virtual reality shows. Thus, the creation of systems that are able to meet the new requirements of virtual reality on the management, storage, search, access, distribution and detection of complex multimedia resources became necessary. These information systems / tools are data bases with multimedia museum collections or antiques that can be connected to a network.

Metadata are information / data that are added and identify technically, descriptively, administratively the material, support the information systems and foster the quality of data. So they constitute an important part of the database and the "code" of data management.

Metadata answer the questions why, what, who, when and how the object was created and therefore should be properly updated and changed when data media are being updated³².

4. DESCRIBING MATERIAL STANDARDS

Metadata standards are the way of representing metadata on the Internet. They facilitate the interoperability of systems, reclaim metadata into distributed systems and are commonly referred to structured metadata. The unstructured metadata such as comments and notes can be a part of the structured ones³³. Metadata are selected and thus the characteristics to be recorded are depending on that choice. Metadata standards that are important for the systems promoting museum collections will be analyzed onwards.

a) CIDOC CRM Cultural Information Metadata Standard

³² Manitsaris, Alexandropoulou, et al., 2008, p.579, (in Greek).

³³ Dunkley, 2003.

Konstantopoulos, Bekiari, Der, 2005, (in Greek).

The international CIDOC conceptual reference model (= CRM) standard is the most important object-reference metadata standard for the management and documentation of museum collections information. It is a reference standard with the purpose of mediating, exchanging and blending the heterogeneous cultural information referred to collections. It aims to transform the disparate and local information in a commonly understood information and completes, therefore, the heterogeneous information of cultural organizations, internal networks or of the Internet³⁴. The CIDOC CRM is a product of a ten –plus years of effort created by the International Documentation Committee (CIDOC) of the International Council of Museums (ICOM).

The CIDOC CRM:

- Captures the diversity of the content and of the historical context as well of each information resource.
- Creates generalizations about the reconstruction and development of the associated parts of the historical context. Indeed, data search tools identify more correlated informational sites.
- It is comprehensive and extensible in the sense that their users are encouraged to create extensions for the needs of specialized communities and applications. It is also highly scalable without compromising the consistency and integrity of the pattern.
- It is recommended and includes a class hierarchy, qualities and relations³⁵.
- Aims at the exchange and interconnection of heterogeneous sources of cultural heritage information for their scientific documentation. It should be noted here that "heterogeneous" are the original data sources that do not have a stable structure and content. "Scientific" is the documentation when the information has the necessary precision to support research applications. "Cultural" is the collection made by the museums as defined by ICOM.

³⁴ http://cidoc.ics.forth.gr/docs/cidoc_crm_greek_v4_1.pdf .

³⁵ Crofts, Dionissiadou, Doerr, Stiff, (ed), 2005, <http://cidoc.ics.forth.gr>.

- Defines and is limited to the semantics of databases shapes and of structures of documents used in the cultural heritage documentation and in museum objects documentation. It does not define the terms in the data structures, but defines the relations regarding their use.
- Interprets the logic of the information documentation and thus facilitates semantic interoperability.
- Provides analysis of cultural documentation in accordance with the rules of logic and the means for understanding the results of optimizations at the semantic accessibility of the respective contents³⁶.

b) Multimedia Content Description Standard MPEG-7

The MPEG-7 standard was developed by the Moving Picture Experts Group (MPEG) and is the most important model for describing audio-visual data of multimedia content. It is officially called «Multimedia Content Description Interface». The content of audiovisual data can also include still images, graphics, three-dimensional models, sound, and complex information for the correlation of those in a multimedia presentation.

The MPEG-7 descriptions may contain:

- Information describing the creation and production of the content processes as namely manager, title etc.
- Information related to the use of the content such as copyright information, usage history, and transmission program etc.
- Information of the content storage features such as storage type, encoding etc.
- Structural information on spatial, time or spatial-time components of the content such as pieces of scenes, division into regions, regional motion detection etc.

³⁶ Manitsaris, Alexandropoulou, et al., 2008, p.591, (in Greek).

- Information on the characteristics of the lower levels of the content such as color, structure, timbre, melody description etc.
- Basic information about the capturing of reality from the content (objects and events, interactions between objects etc.).
- Information about the search of content in an efficient manner as summaries, variations, subsets of space and frequency etc.
- Information about collections of objects.
- Information about the user interaction with the content such as user's preferences, usage history etc.

c) Categories Standard for the Description of Works of Art (CDWA)

The CDWA (Categories for the Description of Works of Art), was created by the Art Information Task Force (AITF) and was funded by the Getty Foundation. The CDWA was formed based on the needs of the academic researcher or of the student. The categories and subcategories which constitute the core are those that the AITF has agreed to represent the minimum information necessary for the unique and unambiguous identification and description of a particular work of art or of a museum object. However, the question of which categories are considered the core can and should vary depending on what kind users, that particular Information Technology art system intends to serve, depending on the mission of the particular institution and on many other factors.

The CDWA focuses on "movable" objects and their images, including paintings, works on paper (hard copies), sculptures, ceramics, metal works, furniture, drawings, graphic art and other, from all periods and all geographic areas. It describes the content of Art Databases with the structure of a fundamental framework for the description and addition of information about art, architecture, other cultural material, groups and collections of works and related images. It contains discussions, basic instructions for cataloging and examples, plus a framework

concerning which of the existing art information systems can be mapped and which of the new systems can be developed.

The use of this framework will contribute to the integrity and longevity of data and will facilitate the inevitable adoption of new systems since informational technology continues to evolve. Above all, it will help to yield a consistent and reliable user access to information, regardless of the system to which they belong.

The AITF identified 26 different types of information found in the descriptions of works of art. The AITF simply extend the procedure of the traditional catalogue insertion in the full range of information found in the descriptions of works of art. To be able to do this categorization neutral and applicable to many target areas, intentionally, broad category names were selected.

d) The VRA Core Record Standard/Visual Resources Association Core Record

The VRA Core Record was created for describing substituents of images of art and architecture in optical sources collections and for distributing such sources electronically. It is designed according to the Dublin Core, the History Information Program of Art of the Getty Foundation and the CDWA standard.

It proposes data elements required for the description of an object in a collection of optical sources and a common environment. Its basic categories can act as a form for selecting, from the total of the available exhibits, the information that are shared in the collections of optical sources. Each category is designed according to the MARC cataloguing system in recognition of its importance as a possible model for visual resources collections.

The standard is intended for specialists on optical sources, software vendors and others who work on data standards for optical sources collections. The Data Standards Committee (DSC) excluded many categories of information from this standard. It does not, therefore, contain categories of objects such as history of occupation / collection and related projects, plus a number of collections management categories relating to the production of inscriptions and the

circulation of slides. The committee tried to limit its efforts so as to present something that would be understandable and useful.

e) Object ID Standard

The Object ID standard started from the Getty Foundation and is an international standard for describing cultural objects. It is the result of years of research in collaboration with the community of museums, the international political agencies, the art trade, the security industry and the art and antiquity appraisers.

The standard is defined by its multiple of uses:

- As a list of information required for the identification of stolen or missing objects.
- As a documentation template that sets the minimum amount of information needed to identify an object.
- As a key generating system on developing informational networks that enable global organizations in the rapid exchange of items description.
- As a key component in any educational program that teaches the documentation of art and antiquities.

The Object ID is not an alternative to the existing standards. It is a basic template created for a very specific purpose, the description of cultural objects in order for their identification. It can therefore be incorporated into the existing recovery systems, Information Technology standards and codes of practice.

The list of Object ID is small and simple. It represents a very small sample in relation to the documentation standards developed by cultural heritage organizations. However, it is not always possible or even desirable for the organizations to provide all types of information for each item in their collections. The distinction from the organizations themselves will determine which categories will be recorded in each case and at which level of detail.

f) Standards Combination as a New Trend

The new trend in the management of cultural information is the synthesis by combining more standards. Thus, for example, standards CIDOC CRM and MPEG-7 Standards can be combined³⁷ for describing the creation, production and classification of information associated with an information source.

Specifically, the CIDOC CRM, which aims at providing exceptional support framework, improves the support for the media description by adding specific multimedia subclasses of MPEG-7.

In particular, the CIDOC CRM aims to describe objects with scientific logic and perspective. It aims to the degradation of knowledge (in individual proposals) and to its integrated composition (consolidated knowledge base). The MPEG-7 aims at the accuracy of the multimedia description. It aims to the automated search, retrieval or filtering of the content of the multimedia. As said, both models are able to describe the creation, production and classification of the information of a source therefore the coupling of their components for the production of an improved supporting framework is realizable³⁸.

³⁷ Hunter, 2002.

Davis, Trant, Van der Starre, 1996 <http://www.willpowerinfo.myby.co.uk/cidoc/introtomultimediamuseums.pdf>.

³⁸ Sinclair, Addis, et al., 2006.

II. CHAPTER TWO: INTELLECTUAL PROPERTY RIGHTS (GREEK COPYRIGHT LAW)

Since the dawn of the time humans were able to massively copy and reproduce literary or artistic works, a way of preventing infringement had to be found. In the sector of Information Technology, the technological developments lead to the development of applications used by private and public operators and relate to the Internet. Thus, public and private organizations can provide services and digital material via the Internet. Such an agency is the museum that can be either displayed electronically, online, or can exist only on the Internet. The use of digital technology for the enhancement of antiquities located in museums creates issues regarding intellectual property. These issues are today considered critical because they appear in the context of the new digital reality.

1. COPYRIGHT

The initial copyright law was practically passed by the UK Parliament in 1710, relating to the Common Law system approach of justice and was called the Statute of Anne Act. However the word copyright made its appearance in 1735³⁹. The real need for international protection of intellectual property appeared in Vienna in 1873 when foreign exhibitors refused to attend the International Fair of the city out of fear of their ideas being stolen and exploited in other countries. Ten years later in 1883 the International Treaty of Paris protects the rights of individuals on their intellectual creations in the field of industry. Later on, in 1886 the Berne Convention for the Protection of Literary and Artistic Works protects the rights on novels, short stories, theatrical plays, songs, operas, sonatas, paintings, sculptures and architectural works. This convention is the key to the harmonization of all the differing approaches each country has regarding copyright law. It led to the creation of the Copyright Law of the European Union which is practically a number of directives mandatory for the member states to be absorbed by their national laws. The Berne Convention was revised in Paris in 1971. In 1952 the World Intellectual

³⁹ <http://i.word.com/idiictionary/copyright>.

Property Convention was signed in Geneva, in 1961 the International Convention of Rome for the “Protection of Performers, Producers of Phonograms and Broadcasting Organizations” was signed, in 1971 the Geneva Convention on the “Protection of Phonogram Producers” was signed and in 1995 the “Intellectual Property Rights in Trade” Agreement (TRIPS) was signed.

So not to expatiate, by the late 18th century and the early 19th century most European countries had developed similar laws concerning Copyright protection. Since then, several definitions have been given. Dictionary.com presents a rather general and less scientific definition such as “Copyright, noun: the exclusive right to make copies, license and otherwise exploit a literary, musical or artistic work, whether printed, audio, video, etc...”⁴⁰ and the FreeDictionary.com a more scientific and rather specific one such as “Copyright, noun: the legal right granted to an author, composer, playwright, publisher or distributor to exclusive publication, production, sale or distribution of a literary, musical, dramatic or artistic work.”⁴¹

All in all copyright is the term used to indicate the exclusive economic and moral rights a creator- author holds on their own product of creative activity, since it is original and statistically unique. It is of great significance to mention that the copyright law of each country is different and is in fact a “mix and match” of the aforementioned Berne convention and the aforementioned European Union Copyright Law. All of the above mentioned legislations apply additionally to the L.2121/1993 Greek Copyright Law for the protection of “Copyright, Related Rights and Cultural Matters” as is in force to present and which will be analyzed and applied later on regarding databases, photographs and audiovisual works.

In order for a work to be Copyright protected, one has to firstly check if it is original. For databases, photographs and computer software it is enough to say that the “prerequisite of originality is deemed to be fulfilled if the work meets the criteria implied by the phrase: the author’s own intellectual creation”⁴², as it is clearly mentioned in Art.2 (2a) of the Greek Copyright Law. For audiovisual works it is not enough to only appoint that “it is the author’s own

⁴⁰ <http://dictionary.reference.com/browse/copyright>.

⁴¹ <http://www.thefreedictionary.com/copyright>.

⁴² Prof. Irini Stamatoudi in class personal notes.

intellectual creation"⁴³ but one has to establish that it is statistically unique and that means that no other person-author under the same or similar circumstances and with the same aim in mind would have reasonably reach the same creative result, and/or that the work at issue presents an individual particularity or a modicum of creativity such that the work can be distinguished from everyday production or from other similar and known works.

a) WIPO

The acronym WIPO stands for the World Intellectual Property Organization. An international organization for safeguarding Intellectual Property Rights. WIPO ensures the international protection of such rights, recognizing this way the human creativity in science and art and provides a stable environment for the trade of copyrighted products internationally. WIPO was established in 1970 and constitutes a transformation of BIRPI, namely the International Bureau for the Protection of Intellectual Property, which had its headquarters in Berne, Switzerland. Since 1974 and given a mandate by the United Nations the WIPO is managing issues regarding Intellectual Property. Thus the WIPO program includes the harmonization of the national legislations on copyright, the exchange of information on intellectual property rights, the legal and technical assistance regarding the expansion of the protection in other member states, the provision of help and guidance towards solving problems which may rise in the field of intellectual property, the development and implementation of the international regulations and standards, the renewal of the protection of rights in the Internet era and the serving of demands regarding the industrial property. In the above context, expanding and intensifying its role in protecting intellectual property rights, WIPO concluded a cooperation agreement in 1996 with the WTO (World Trade Organization), the famous WIPO Treaty on Copyright. This treaty provides additional protection to copyright in the modern times of Information Technology.

⁴³ Koumantos- Stamatoudi, 2014, page 129.

b) European Union Protection

The Community Framework issued a series of directives by the European Union for the adaptation of the protection of copyright in the new digital reality. The most important European Union Directives are the following:

- The 92/250/EEC Directive for the legal protection of computer programs. The Directive protects the copyright of the computer programs exactly as in the literary or artistic works.
- The 92/100/EEC Directive on the rental and lending right and on certain related rights in the field of products of the mind. The Directive on the one hand allows the author to authorize or prohibit the rental or lending of originals or of copies of works protected and, on the other hand, prohibits the author to resign from the right to receive reimbursement for the rental. It also contains provisions on the possibility of excluding categories of establishments such as, for example, the braille libraries.
- The 93/83/EEC on the coordination of certain rules relating to copyright and neighboring rights applicable to satellite broadcasting and cable retransmission. The Directive considers satellite broadcasting as an action associated with the copyright of the country of origin.
- The 93/98/EEC Directive which is harmonizing the term of protection of copyright and of certain related rights. The Directive defines the term of protection to 70 years from the death of the author and to 70 years from the year of the first publication of anonymous works or works under a pseudonym, such as the orphan works.
- The 96/9/EEC Directive on the legal protection of databases. This Directive protects databases as collections of works (newspapers, magazines) or data collections. The collections must be intellectual creations and be the result of personal creative work. Moreover, the Directive protects those databases which does not constitute works protected by copyright because by nature they constitute databases.
- The 2001/29/EC Directive on the harmonization of certain aspects of copyright and related rights in the information society. The Directive incorporates into the European Law the International Treaties WIPO Copyright Treaty (WCT) “for Intellectual Property” and WIPO

Performances and Phonograms Treaty (WPPT) “for Performances and Phonograms Treaty” of the World Intellectual Property Organization (WIPO). It is also detailed and includes a definition of the artist resale rights.

- The 2001/84/EC Directive on the resale right of the author’s original work of art. The Directive provides that the creators of original works of art such as artistic photography, are entitled a share of the sale price every time the original is resold.
- The 2004/48/EC Directive on the enforcement of intellectual property rights.

All of the above Directives seek to harmonize the legislations of the Member States of the EU among the issue of copyright and are guided by the need to ensure a high level of protection and the need to create a uniform framework regarding cultural affairs.

c) Protection under the Greek Copyright Law

The main instrument in Greece for the protection of intellectual property is the L.2121 / 1993 “for Copyright, Related Rights and Cultural Matters”, as amended and currently in force. It should be added that the Community Directives have led to repeated changes to the L.2121 / 1993 due to its harmonization with the laws of the other Member States of the EU and its adaptation to the new digital reality of the Internet. Furthermore and additionally, the International Berne Convention L.100 / 1975, the International Rome Convention L.2054 / 1992, the World Intellectual Property Agreement L.4254 / 1962, the Geneva Convention L. 2143/1993 and the TRIPS Agreement L.2290 / 1995 apply.

2. THE CATEGORIZATION IN THE DIGITAL WORK AND THE COPYRIGHT ISSUE

Before the application of digital technology, the “copy” was a tangible, physical object with time consuming and expensive reproduction or “copying” procedure. Nowadays, the digital “copies” can be reproduced, altered, counterfeited and distributed with ease, facilitating the infringement of copyright of the original work of art. However, apart from the more classical meaning of “copy”, the current “copy” of antiquities included in a museum is an independent work, self-contained and self-existent in the “venue” of the Internet. This project can be a digital image, multimedia work or website. It is because this “work” was born with the help of technology, and is original, that it is the subject of copyright law. At the same time, it raises copyright, listed in the digitization process and its result. As said, this work can be infringed with discretion and therefore the need for its protection is necessary. One at this point could realize that in today’s digital age the digital “copy” of the museum collection of an actual museum or (much more) the creation of a “new” e-museum on the internet is a creative and original “work” that has intellectual creators, who acquire ipso facto rights protected by the copyright law. The digital work may consist of one or more museum collections, or may highlight all collections or exhibits of an actual museum or may display on the internet, a museum that does not really exist. Such a digital work is typically considered a multimedia work, based on a database and, in addition, it is original since it is based on the arrangement of the contents of the database and on the selection of the content of the database- a fact which can provide a variety of effects.

According to the L.2121 / 1993 Intellectual property rights are divided into economic and moral. Thus the creator of the digital work acquires- with their creation, the copyright on it, including, as a complete and exclusive rights, the right to economic exploitation of the project called economic right and the right to the protection of the personal bond towards the project called moral right and therefore safeguards the personal relationship of the author with their work. Apart from the above two rights, a right to protection under the copyright law own the manufacturer of a database and the creator of the software as well. Thus the creator of the digital project of the electronic museum can have all the above rights.

a) Economic Right

The economic right provides creators with the power to authorize or prohibit the reproduction of their work (direct or indirect, permanent or temporary) by any means and in any form. The concept of reproduction includes the case of shipment and storage of copyright works on a server or on hard disk (temporary reproduction) and the case of e- mail sending. Furthermore the economic right provides creators with the power to authorize or prohibit the adaptation, adjustment or other alteration of their work, the translation of their work, the distribution of the original or of copies to the public in any form by sale or otherwise, the rental or public lending, the presentation to the public in any way, such as via the Internet so the public may access these works when and where they choose and finally the importation of copies of works produced abroad without the consent of the author. Looking from the economic perception the reproduction, and the power of the author to authorize or prohibit it, constitutes the central issue of property rights. Reproduction or storage in temporary (RAM) or cache memory of a computer or site, of a part or of the entire digital project of the electronic museum without the consent of the author is allowed if used privately and does not become liable to damage the procedure of exploitation of the work. Electronic database reproduction for private purposes is not permitted. Furthermore, the economic right may be transferred freely under specific conditions and contracts.

b) Moral Right

The moral right provides the creator of the digital project with the power to decide on the time, place and manner in which the work will be accessible to the public, to be eligible of recognition of the paternity in the project and in particular the power to require, to the extent possible, the citation of their name on copies of their work or, conversely, to keep anonymous or use a pseudonym, the power to prohibit any deformation, cutting or other modification of their work, plus any violation of copyright due to the presentation conditions of the project to the public, the power to access their work, even if the economic rights or the ownership of the work was transferred to another, so the access should take place in a manner that causes the least

possible inconvenience to the beneficiary. The moral right is independent of the economic and remains to the beneficiary even after the transfer of the economic right.

c) The issue of the Author of the Digital Work in an E-Museum

In practice museums assign the digital production and its presentation on the internet to their staff (employees) or specialists with an employment contract. For works created by employees, the initial holder of the economic and moral right is the creator. Only those powers of the economic rights that are necessary to fulfill the purpose of the contract are automatically transferred to the employer (namely the museum), unless an agreement or contract to the contrary or otherwise is signed. The economic right on digital works created by employees, under any work relation, of the State or by employees in execution of their duty, shall be transferred automatically to the employer (namely the government) unless an agreement or contract to the contrary or otherwise is signed. So, ultimately, the museums (either as private or as public employers) are the carriers of copyright of the digitization of their collections, that is, the copyright of the digital work.

However there are indeed certain ways for one to protect their work when communicated via Internet services. However the risk of one's rights being violated when sharing their work online should be taken into consideration beforehand. This is why every artist should know their specific rights on their works according to each jurisdiction and definitely report and act against whatever kind of infringement.

3. DATABASES

As aforementioned, the digital work of a museum collection or the digital work of an e-museum is based on an original database. According to Art.2 Para.2 (2a) "database is a selection of independent works, data or other materials, arranged in a systematic or methodical way and

individually accessible by electronic or other means”⁴⁴. In this term both conventional databases such as the Public Communications phone book and the electronic databases such as a CD-ROM are included. According to the same article, a database is considered a work protected by copyright as such and this protection “shall not extend to the contents of databases and shall be without prejudice any rights subsisting in those contents themselves”⁴⁵. The originality of the database lies in the infrastructure, structure, choice of the components of the base but not in the content of the base. Therefore examining the originality of databases it is enough to say that the “prerequisite of originality is deemed to be fulfilled if the work meets the criteria implied by the phrase: the author’s own intellectual creation”⁴⁶, as it is clearly mentioned in Art.2 (2a) of the Greek Copyright Law. So the work of the database as such is protected but that does not mean that the included works are protected through the same copyright.

Thus the creator of the database of the e-museum holds both the economic and the moral rights of copyright for a spiritual work in a digital form. The content of the database is subject to the special sui generis right presented in Art.45A of the Greek Copyright Law and belongs to the manufacturer of the base. The manufacturer of the database is a natural or legal person who carries the significant financial investment of the construction of the database and bears therefore the risk of the investment. He has the right to prevent the extraction and re-utilization of all or of a substantial part of the content of the database, evaluated qualitatively or quantitatively. The manufacturer is not regarded as a database developer. The content of the database may be a prototype as well.

The author or the creator of a database may protect their work against infringement simply by adding specific data on specific fields in the database, making it unique in any way. This action should make the database easily recognizable and should provide an easy and secure way to prove infringement (e.g. copying) happened by any chance. In addition, the database must be secured with terms of use created by the right holder, indicating to the public the permissible use and thus prohibiting any kind of infringement.

⁴⁴ Koumantos- Stamatoudi, 2014, page 129.

⁴⁵ Koumantos- Stamatoudi, 2014, page 129.

⁴⁶ Prof. Irini Stamatoudi in class personal notes.

To this point one should bear in mind that the database creator is not the same with the computer software developer. The software is considered a literary work protected by the law as intellectual creation and specifically by Art.2 para.3 of the Greek Copyright Law. It is used to create the digital work of an e-museum and includes the programs of a computer along with the preparatory material of their design. The above protection is provided on any expression and in any form of a computer program.

Consequently the right to software protects the computer program code which shows originality, but does not protect the ideas and principles on which any element of a computer program is based, including those on which the interconnecting with other program, hardware or users systems are based.

The copyright in the software includes the economic and moral right. Therefore, the reproduction, adaptation, alteration, translation, communication to the public and distribution of the program is in principle prohibited.

4. PHOTOGRAPHS

While for the greater percentage of works the procedure followed to resolve a possible infringement of copyright is rather a kind of compass, for photographs and audiovisual works the subject matter gets extremely complex, as special provisions and related rights are involved. Concerning all types of works, Articles 2, 3 and 4 of the Greek Copyright Act apply. These articles help to identify if the subject matter is considered a work protected under the law and provides the economic and moral rights granted to their authors. Article 6 indicates the right holder of a work of photography. In Article 10 some presumptions exist to cover any inconvenience created by Articles 6 to 9. Article 10 paragraph 1 applies for photographs. To this point it is important to mention that in order for one to encounter a case of copyright infringement, they have to study the whole Copyright Act thoroughly. The Articles to follow are only the most important and specific ones relating to the cases of photographs.

The articles concerning photographs are concentrated on Art.38, which is where one could find the special provisions regarding photographers. So aside from Art.2, 3, 4, 6 and 10, the photographs' issue is less complex and as we will ascertain onwards it is easier to protect as well. A photograph may as well constitute an orphan work in case that its author is unidentified or, in the case of joint authorship, all right holders are unidentified or at least one of them is unidentified. In the said case one should turn to the Directive 2012/28/EU of the European Parliament and of the Council⁴⁷. When dealing with photographs one should take under consideration other rights that rise in such works as well. An exact example is this of the right to personality. With the exception of public figures or public events all individuals that are depicted to photographs own the right to personality. This means that they have to give their consent in order for the author of the photograph to be able to exercise their economic rights of their work. The right of personality has its legal bases on Art.2 para.1 and Art.5 para.1 of the Greek Constitution. In Art.2 para.1 the state appears obligated to respect and protect the value of a human being and Art.5 para.1 "awards a right to freely develop one's personality and participate in the social, financial and political life of the Country, as long as one doesn't infringe others' rights, the Constitution or the good morals"⁴⁸. In Greek Private Law the right of personality is met under Art.57 of the Code of Civil Law⁴⁹ and it encompasses possible compensation for the victim of the violation thus the protection goes beyond the protection of criminal law to that case. Finally apart from the consent that has to be given in order not to infringe the right to one's personality, the publication of a photograph depicting a person might still be illegal if the consent has not been given for the particular action (the person might give his consent to publicize in Vogue magazine but not in People magazine) or if the consent has been revoked.

Other rights rising from the works of photographs might be the right to be forgotten⁵⁰ and the right of publicity⁵¹.

⁴⁷ <http://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32012L0028&from=EN>.

⁴⁸ Prof. Irini Stamatoudi's in class notes.

⁴⁹ <http://www.poes.gr/images%5Cnomoi%5Ckodikes-kanonismoi%5Castikoskodikas.pdf> .

⁵⁰ <http://www.kathimerini.gr/766917/article/teknologia/diaktyo/katoxyrw8hke-to-dikaiwma-sth-lh8h> .

⁵¹ http://www.drakopoulos-law.com/mediaupload/pdf_ip/Right%20of%20Publicity%20Greece%20GTD.pdf.

To protect one's photographs online is nowadays a relatively easy matter⁵². At first the artist should mark his work so that the potential infringer is aware that the artist is perfectly educated concerning the rights deriving from the making of the work. This could be done by displaying a notice such as the © one along with the artist's name, surname and year of creation. It is a way, allowing third parties to be able to contact the artist in case they want to copy and use the work.

The second thing a photographer should do is to register their work. There are several companies offering such services for a reasonable price. One of these is Myows which shortcuts for "My original works". When using Myows by uploading a work, the site generates a certificate which proves ownership and allows licensing. Through this site one can enjoy even assistance through a copyright violation case. Another one is DepotCode which, when uploading a work, offers a QR code used to identify the work as copyright protected. In the latter service it should be wise for one to upload supporting documents as well, apart from the work alone. Furthermore, there is Picuous, a site which provides alongside the work, a link to the original one so as to be visible in case of copying the work.

The third thing for an artist to do to secure their work, is to register supporting evidence, meaning evidence while progressing the work or even the preface of the work. A good case of supporting documents is the watermarking technique. Watermarking can be either online or offline. Although partly destroying the photograph, it is most probably the best way of letting the infringer know that you take your work seriously. Using Photoshop is the most convenient way of watermarking since one can create whatever they wish to.

The last step of securing one's creation online is the agreement between the authors, in case there exists a collective or joint authorship work. Each party has to know exactly which rights belong to them so as to act accordingly.

⁵² <http://thenextweb.com/apps/2011/09/09/5-ways-to-protect-your-work-online/>.
<http://www.artslaw.com.au/legal/raw-law/how-do-you-protect-your-work-on-the-internet/>.
<https://www.copyrightservice.co.uk/protect/>.
<http://skinnyartist.com/stop-stealing-my-images>.

Moreover three techniques seem to be working well for artists who share their creations online. First, the “turning off the right click” measure, then the “shrink-wrapping the image” method and last the “slice and dice” method. The “shrink-wrapping” method doesn’t stop anyone from seeing or ever downloading a photograph, but the image which is finally downloaded is not the one expected. It comes up as a transparent image having a glass panel on top. The “slice and dice” method is exactly what the phrase indicates. It is practically a way of uploading the image in small pieces, so when someone tries to copy it, they should get only the part they clicked on.

Finally TinEye should be mentioned, which is a search engine online helping to find out if images have been posted or reposted and where.

5. AUDIOVISUAL WORKS

For audiovisual works it is most clearly set in Art.9 that the principal director may in any case be considered the author of the work. Art. 23 applies regarding reproduction, Art. 27A Para.2 a),b),c) and Para. 6 of the revised Act as amended up to Law 4281/20145⁵³ applies regarding special limitations on the economic right as for orphan works, Art. 31 Para.3 indicates the special provisions regarding the duration of protection for the audiovisual works, Art. 34 applies for contracts, Art.35 applies for broadcasting or rebroadcasting such works, Art. 46 as a related right indicates in its first paragraph what a performer is and then in its paragraphs 2, 3, 4 and 5 all of the performers’ rights are reported. Art. 47 Para.2 is a related right which lists the rights an author holds on authorizing or prohibiting their economic rights, Art.49 is a related right which sets an equitable remuneration for the occasions regarding recordings of audiovisual works, Art. 52 e) as a related right refers to the duration of the rights of broadcasting organizations for audiovisual works and Art.53 states that the previous related rights do not in any case affect any copyright the said author holds. In Art.66 Para. 2a) and c) one could find the

⁵³ <http://www.wipo.int/edocs/lexdocs/laws/en/gr/gr306en.pdf>.

sanctions provided for the infringement of that type of works. Of course as one can imagine, all kinds of sanctions apply and not only criminal.

Regarding audiovisual works, the law is clearly more specific. Thus there are not any special precautions to prohibit copyright infringement. The measures provided are concluded to those of photographs such as putting the © notice with the name, surname of the author and year of creation, giving the possibility to one contacting the author in case they wish to make use of the work, uploading a lower quality of the film and announcing that one can buy the HD version and finally digital fingerprinting.

Digital fingerprinting “is a technique in which software identifies, extracts, and then compresses characteristic components of a video, enabling that video to be uniquely identified by its resultant “fingerprint”. Video fingerprinting is technology that has proven itself to be effective at identifying and comparing digital video data.”⁵⁴

To discover infringement in audiovisual works, the using of search engines through the Internet does indeed qualify the best.

6. SANCTIONS AND DURATION

In case of infringement of either the economic rights or the moral rights or the right of a database creator or the right of the software developer, the beneficiary may claim recognition of their entitlement over the work, removing the infringement and care for its omission in the future. The right holder may also claim compensation for any damage as well as compensation for moral damages (Article 65 L.2121 / 1993). Even administrative sanctions are provided (Article 65A L. 2121/1993) along with the possibility of taking injunctions (Article 64A L.2121 / 1993).

The protection of intellectual property lasts in general for seventy (70) years from the death of the author. For audiovisual works and since the nature of these works is most likely a collective matter, the 70 years that is term of protection runs from the year of death of the last

⁵⁴ https://en.wikipedia.org/wiki/Digital_video_fingerprinting.

one participator to die. Participators are considered the main director, the author of the screenplay, the author of the dialogue and the composer of the music especially written for the particular audiovisual work. However a confusion is generated when it comes to the rights of the producers. In this case the duration of their rights is set to fifty (50) years after the material integration.

III. CHAPTER THREE: A SIMPLE AND FICTIONAL CASE REGARDING DATABASES, PHOTOGRAPHS AND AUDIOVISUAL WORKS

CASE

George is a “curator” of a database which is acting as a kind of an e-museum. On this database anyone can upload his work of art such as photographs or video artworks, after consulting with George and be granted a small cyberspace of some Megabytes. Technological measures to prevent infringement are put on the database. No one can download more than one copy for private use from it. Bob is a photographer and Claire is a director. Both want to be famous so they decide to upload a small piece of each work to George’s database, so as to be seen publicly and be acknowledged as artists. No contract of exploitation has been signed between the artists and George. Helen is a blogger. She usually writes about photograph techniques. She found Bob’s photograph pretty interesting and she downloaded it in her computer. She then writes an article and uploads the photograph as the perfect sample of the technique she analyses. John owns a site concerning fine arts. He noticed Claire’s work and thought that this 5-minute video would be

brilliant to be seen as an opening act to his site. So without wasting any time he downloads Claire's video and uploads it on his site.

- Does George hold any rights on Bob's and Claire's works of art?
- Which are Bob's and Claire's rights on their works?
- Did Helen or John infringe any of the artists' rights? Which?
- What could Bob and Claire do next?

CASE ANALYSIS

- Define the works, if they are copyright protected or related rights apply and who is the initial right holder.

1. George owns a database.

According to Art.2 Para.2 (2a) "database is a selection of independent works, data or other materials, arranged in a systematic or methodical way and individually accessible by electronic or other means"⁵⁵. According to the same article, a database is considered a work protected by copyright as such and this protection "shall not extend to the contents of databases and shall be without prejudice any rights subsisting in those contents themselves"⁵⁶.

In order for a work to be Copyright protected, one has to firstly check if it is original. For databases, photographs and computer software it is enough to say that the "prerequisite of originality is deemed to be fulfilled if the work meets the criteria implied by the phrase: the

⁵⁵ Koumantos- Stamatoudi, 2014, page 129.

⁵⁶ Koumantos- Stamatoudi, 2014, page 129.

author's own intellectual creation"⁵⁷, as it is clearly mentioned, in that case, in Art.2 (2a). So the work of the database as such is protected but that does not mean that the included works are protected through the same copyright.

Since George has invested in making this database, according to Art.45A (1), a related right, he holds the sui generis right of the maker of the database "which shows that there has been quantitatively and/or qualitatively a substantial investment in either the obtaining, verification or presentation of the contents..."⁵⁸.

So George is the author of the database and the maker of it. He holds both the copyright on the database, referring to the structure of the database, and the sui generis right, referring to the investment on the database. This means that he is the initial rightholder of the database according to Art.6 (1) and holds all the economic and moral rights of it. He does not in any way hold any rights on Bob's and Claire's works, unless it was otherwise agreed through a contractual act. His work is protected during his life and for "70 years after his death, calculating from the first of January of the year following his death"⁵⁹ according to Art.29 (1).

2. Bob is a photographer.

A photograph is generally considered a work according to Art.2 (1) "The term work shall designate any original intellectual literary, artistic or scientific creation... and photographs"⁶⁰. As mentioned earlier, in order for any work to be protected it should be original. Now assuming that the same aforementioned criteria apply, Bob's photograph is copyright protected and since he is the author of it, according to Art.6 (1) he is the initial rightholder of all economic and moral rights of his work. His work is protected during his lifetime and for "70 years after his death, calculating from the 1st of January of the year following his death"⁶¹ according to Art.29 (1).

⁵⁷ Dr. Irini Stamatoudis' notes in class.

⁵⁸ Koumantos- Stamatoudi, 2014, page 160.

⁵⁹ Koumantos- Stamatoudi, 2014, page 148.

⁶⁰ Koumantos- Stamatoudi, 2014, page 128.

⁶¹ Koumantos- Stamatoudi, 2014, page 148.

3. Claire is a director.

She produces audiovisual creations. An audiovisual creation may be a visual only creation or a creation with a moving-always image and sound on top of it, but never audio only creation. Sound is the complementary feature. These types of works are considered special, thus special provisions apply.

An audiovisual creation is considered a work under Art.2 (1). In order again to be copyright protected, this work has a little bit more criteria to fulfill. For audiovisual works it is not enough to only appoint that “it is the author’s own intellectual creation”⁶² but one has to establish that it is statistically unique and that means that no other person-author under the same or similar circumstances and with the same aim in mind would have reasonably reach the same creative result, and/or that the work at issue presents an individual particularity or a modicum of creativity such that the work can be distinguished from everyday production or from other similar and known works.

Now assuming that all of the above apply in the said case of audiovisual work, the work is copyright protected. Since Claire is the only author, according to Art.9, she is the initial rightholder according to Art.6 (1) of all economic and moral rights of her work. In this case we have no collective work since Claire made the entire video herself, so no presumptions apply. Finally, Claire’s work falls under Art.31 (3) a special term of protection in duration “seventy years after the death of last...to survive”⁶³ which in this case is only her.

- Technological Measures

In Art.66A one meets the provisions of the law referring to the technological measures that an artist has put on his work in order to protect it and prevent infringement. Technological

⁶² Koumantos- Stamatoudi, 2014, page 129.

⁶³ Koumantos- Stamatoudi, 2014, page 149.

measures are most likely to be applied on works concerning digital creations such as databases, photographs and audiovisual works.

At first one should take a look in Para.5 to check if there any limitation exists. In the said case no limitations apply, so according to Para.1 “technological measures mean any technology...that...is designed to prevent or restrict acts... which are not authorized by the right holder...”⁶⁴. According to Para.2 “it is prohibited to circumvent, without the permission of the rightholder”⁶⁵ the sub technological measure used to protect the work. Para.4 indicates the sanctions used in that case of circumvention.

In any case, under Art.3 (4) “reproduction of electronic databases for private use is NOT permitted”⁶⁶.

- Contracts of exploitation

George holds the copyright of his database along with the sui generis right. But as the right holders of the works included in his structure database remain the artists, he does not in any way hold any rights on Bob’s and Claire’s works. Although George practically exploits the work of the two artists, there is not a contractual act between the parties. So in accordance with Art.13 (4) “where doubts exists...the license shall be deemed to be non-exclusive”⁶⁷. Thus, although the exploitation of the works is happening through George’s database, George not only holds no right on the said works, but he is asked under Art.13 (3) “to seek legal protection against illegal infringements by third parties”⁶⁸ on his own.

⁶⁴ Koumantos- Stamatoudi, 2014, page 196.

⁶⁵ Koumantos- Stamatoudi, 2014, page 197.

⁶⁶ Koumantos- Stamatoudi, 2014, page 131.

⁶⁷ Koumantos- Stamatoudi, 2014, page 137.

⁶⁸ Koumantos- Stamatoudi, 2014, page 137.

- Infringing acts

1. Helen is a blogger.

By downloading one copy of Bob's photograph she does not in any way infringe any of George's, Bob's or Claire's rights.

She then wrote an article. This article, including the uploaded photograph, if it fulfills the originality criteria, is considered a work under Art.2 (1), copyright protected, the author of which is Helen and thus she holds all economic and moral rights, as she is the initial right holder under Art.6(1).

However by copying and uploading Bob's photograph on the Internet and in her article, she is an infringer of both Bob's economic and moral rights. More specifically:

Economic rights:

- The right of reproduction Art.3 (1) (a)
- If she made an adaptation or alteration to the photograph in order to make it fit to her blog, the right of adaptation or alteration Art.3 (1) (c)
- The making available right Art.3 (1) (h), which is proved not only by uploading the photograph to the Internet, but according to Art.3 (2) public is "when the work thereby becomes accessible to a circle of persons wider than the narrow circle of the family and the immediate social circle of the author..."⁶⁹.

Moral rights:

- The right of paternity Art.4 (1) (b)
- The right of integrity Art.4 (1) (c) (if adapted)

⁶⁹ Koumantos- Stamatoudi, 2014, page 130.

•The right of publication Art.4 (1) (a) (Though the term publication refers only to hard copies. In this case as we are referring to the Internet the making available term should qualify best.).

Photographers do fall under special provisions in the Greek Copyright Act. In this case Art.38 applies. Internet in the law is a separate matter and is distinguished from other forms of communication. “The digital media comprises both Internet and mobile mass communication. Internet media provide many mass media services, such as email, websites, blogs...”⁷⁰.

This means that according to Art.38 (1) the publication of photograph is allowed only where the author has given license to, and according to Para.4 “each act of publication...shall be accompanied by a mentioning of the photographer’s name”⁷¹.

One may argue that Helen also infringes the economic exclusive right of the database author (George) of reproduction “in whole or in part”⁷² Art.3 (3) (a) but this would be not entirely accurate because Helen did not copy any of the structure of the database but one picture of its content as she was allowed to.

2. John owns a site concerning fine arts.

By downloading one copy of Claire’s video artwork, he does not in any way infringe any of George’s, Bob’s or Claire’s rights.

If we assume that his site is in fact a kind of a blog where he writes articles on fine art, it is considered a work under Art.2 (1) and if we assume that this work is original, due to the criteria previously mentioned, it is copyright protected. The author is John thus he is the initial right holder under Art.6 (1) and holds all the economic and moral rights of his work.

However by copying and uploading Claire’s video on the Internet and in his site, he is an infringer of both Claire’s economic and moral rights. More specifically:

⁷⁰ https://en.wikipedia.org/wiki/Mass_media.

⁷¹ Koumantos- Stamatoudi, 2014, page 157.

⁷² Koumantos- Stamatoudi, 2014, page 129.

Economic rights:

- The right of reproduction Art.3 (1) (a)
- If he made an adaptation or alteration to the video in order to make it fit to his home site, the right of adaptation or alteration Art.3 (1) (c)
- The making available right Art.3 (1) (h), which is proved not only by uploading the video on the Internet, But according to Art.3 (2) public is “when the work thereby becomes accessible to a circle of persons wider than the narrow circle of the family and the immediate social circle of the author...”⁷³.

Moral rights:

- The right of paternity Art.4 (1) (b)
- The right of integrity Art.4 (1) (c) (if adapted)
- The right of publication Art.4 (1) (a) (Though the term publication refers only to hard copies. In this case as we are referring to the Internet, the “making available” term should qualify best.).

Since Claire is also the producer of her video, she holds the producer’s related right as well. More specifically:

- The right of reproduction Art.47 (2) (a)
- The right of making available Art.47 (2) (d)
- The right of broadcasting Art.47 (2) (f) (if one accepts that the Internet is or could be considered MEANS of broadcasting),

Which were all infringed by John and work in parallel with the copyright infringed, according to Art.53, “such rights shall apply in parallel with each other...”⁷⁴.

⁷³ Koumantos- Stamatoudi, 2014, page 130.

⁷⁴ Koumantos- Stamatoudi, 2014, page 172.

One again may argue about the copyright of George's database being infringed, but the same as aforementioned apply.

- Sanctions and remedies

In both cases of infringement all sanctions apply, briefly mentioned as follows:

- Injunctions Art.64 and Art.64A
- Criminal Sanctions Art.65
- Administrative Sanctions Art.65A (1)- (3), (4) and (5)
- Criminal Sanctions Art.66 (1), (2) c, (3), (4), (5), (6), (7), (8), (9) and (12).

Both Bob and Claire can sue Helen and John respectively for their each cases of infringement. However they most certainly could have granted the copyright on their work using the methods analyzed above⁷⁵. The risk of one's rights being violated when sharing their work online should be taken into consideration beforehand. This is why every artist should know their specific rights on their works according to each jurisdiction and definitely report and act against whatever kind of infringement

⁷⁵ Chapter Two pages 23-29.

IV. CONCLUSIONS

Copyright law is a rather complex matter and an extremely politically intensive area because it is in fact invited to address needs from different and utterly opposite groups of people, without diminishing the artists' rights.

Each case such as the above analyzed has so many tiny little lanes that have to be explored and analyzed before reaching to a solid road of resolving it, that it is most likely that a quite large amount of information hiding besides the words will be lost in the process or even worse be neglected by mistake, while if examined could change the entire procedure of reaching one's point.

The fact that there are so many directions on top of the Copyright Law (e.g. Databases directive) means that these provisions oppose a great difficulty upon the sale market. One needs to soften and clear the law in order to make the most of its use in each case of copyright infringement.

V. BIBLIOGRAPHY

a) Foreign Bibliography:

1. Andrews, J. and Schweibenz, W. A New Media for Old Masters: The Kress Study Collection Virtual Museum Project in Art Documentation, Spring Issue 1998, Vol 17 No 1, pp. 19-27.
2. Bournia, A. and Myrivili, E. 2006: The textual, the virtual and the real: where the past meets the present and the future of museums". Paper presented at The Museum: The World Forum (25-27 April 2006).
3. Crofts, N., I. Dionissiadou, M. Doerr, M. Stiff, Definition of the CIDOC Object-Oriented Conceptual Reference Model, Version 4.2 (2005).
4. Davis. B., Trant. J., Van der Starre (1996) Introduction to Multimedia in Museums, International Council of Museums, Committee on Documentation. Multimedia Working Group: first public version. The Hague.
5. DuBOFF, L., D and King, C.O. Art Law: in a nutshell, 4th edition, 2006, Thomson/West.
6. Dunkley, L., (2003) Multimedia Databases: an Object-Relational Approach, London Addison-Wesley-Pearson Education.
7. Ficsor, M. The Law of the Copyright and the Internet, 2002, Oxford University Press.
8. Galani, A., Chalmers, M.: Empowering the remote visitor: Supporting social museum experiences among local and remote visitors, in 2nd International Conference of Museology (ICM), Mytilene, Greece (2004).
9. Geoffrey Lewis, Britannica online, Article Section, 1996, online <http://www.britannica.com/topic/history-398827>.
10. Gibson, W., Nevromantis, translation Stamatiadis, Aeolus, Athens, 1998.
11. Hazan S., Weaving community webs: A position paper: DigiCULT Thematic Issue 5, January, 2004 (7-10).

12. Hoptman, G.H. The virtual museum and related epistemological concerns. In E. Barrett (Ed.), *Sociomedia, multimedia, hypermedia and the social construction of knowledge* (141-159), Cambridge, MA : MIT Press.
13. Hunter J. (2002) *Combining The CIDOC CRM And MPEG-7 To Describe Multimedia In Museums*.
14. Kavakli, E. and Bakogianni S. (2003) *Building Museum Information Systems - A Knowledge Management Approach*, the 6th Hellenic European Research on Computer Mathematics & its Applications Conference (HERCMA 2003), E.A. Lipitakis (ed.), LEA Publishers, Athens, Greece, 2003, Vol. 2, pp. 850-857.
15. Kenderdine S. 1996, 'Diving into Shipwrecks: Aquanauts in Cyberspace', *Spectra*, vol. 24, no. 1, pp. 32-42.
16. Knell, S.J. 2003. 'The shape of things to come: museums in the technological landscape', *Museum and Society*, 1(3). Versions also published as 'Future museums: a European perspective' in Huang, K. (ed.) *Crisis and Opportunity: Museums in the New Century*, National Museum of History, Taipei, 24-51, and in a shortened version for *M Museos de México y del Mundo*, 1(2), 18-27. [A reflection on the technocrat's imaginings of museum futures].
17. Lambros Kotsiris and Irimi Stamatoudi (eds.), *Commentary on the Greek Copyright Act*, 36 (Athens and Thessaloniki, Sakkoulas Editions, 2009).
18. George Koumantos- Irimi Stamatoudi, *Greek Copyright Law*, 2014, Sakkoulas Publications.
19. McKenzie (1997) McKenzie, Jamie. *Building a Virtual Museums Community*. Paper presented at the *Museums & the Web Conference* March 16-19, 1997 Los Angeles, California. Internet, URL = <http://fromnowon.org/museum/museweb.html>. Version: March 1997.
20. Sinclair, P., Addis, M., Choi, F., Doerr, M., Lewis P. and Martinez, K. (2006): *The use of CRM Core in Multimedia Annotation*. Proc 1st First International Workshop on Semantic Web Annotations for Multimedia part of the 15th World Wide Web Conference (SWAMM 2006), Edinburgh, Scotland.

21. Schweibenz, W. The “Virtual Museum”1: New Perspectives For Museums to Present Objects and Information Using the Internet as a Knowledge Base and Communication System, 1998.
22. Spadaccini, J. (2006). Museums and the Web 2.0. The Exhibitionist Spring 2006. Read more: <http://www.museumsandtheweb.com/mw2006/papers/vonappen/vonappen.html#ixzz3xa106tSd>.
23. I. Stamatoudi and P. Torremans, European Union Copyright Law, Edward Elgar Publishing, Cheltenham (UK) - Northampton (US), 2014.
24. Teather, L. / Wilhelm, K. (1999): "Web Musing": Evaluating Museums on the Web from Learning Theory to Methodology. In: Museums and the Web 1999: Conference Proceedings. CD-ROM documenting the Third International Conference held in New Orleans, LA, March 11-14, 1999. Pittsburgh, PA: Archives & Museum Informatics. Read more: <http://www.museumsandtheweb.com/mw2001/papers/schweibenz/schweibenz.html#ixzz3xaV6w1QF>.
25. Walsh, P. (1997) The Web and the unassailable voice. In J. Trant and D. Bearman (Eds) Museums and the Web 1997: Proceedings. Pittsburg, PA: Archives and Museum Informatics.
26. Witcomb A., Museum Bundle: Re-Imagining the Museum: Beyond the Mausoleum (Museum Meanings) Paperback – January 1, 2003.

b) Greek Bibliography:

1. Αλεξανδροπούλου- Αιγυπτιάδου, Ε., Πνευματική Ιδιοκτησία και Πληροφορική: Μελέτες Δικαίου Πληροφορικής και Διαδικτύου, 2012, Αθήνα, Ελλάδα.
2. Αρβανίτης, Κ. (2004). Ψηφιακό, εικονικό, κυβερνομουσείο ή δικτυακό μουσείο; Αναζητώντας όρο και ορισμό. Στο Δασκαλοπούλου, Σ., κ.ά. (επίμ.), Πρακτικά Πρώτου Διεθνούς Συνεδρίου Μουσειολογίας “Μουσείο, Επικοινωνία και Νέες Τεχνολογίες” (σ. 183-192), Μυτιλήνη: Πανεπιστήμιο Αιγαίου, Τμήμα Πολιτισμικής Τεχνολογίας & Επικοινωνίας.
3. ΓΑΚΗ, Μ. (2003), Το ελληνικό δίκαιο πνευματικής ιδιοκτησίας στις λεωφόρους της κοινωνίας της πληροφορίας, Ελληνική Επιθεώρηση Ευρωπαϊκού Δικαίου, σσ. 487- 499.

4. Γαρουφαλιά, Ο., Η εικόνα του ατόμου και η αποτύπωση αυτής σε έργα πνευματικής ιδιοκτησίας, Γενέθλιον Απ. Γεωργιάδη, 2006, Ι.
5. Δασκαλοπούλου, Σ. & Μπούνια, Α. 2008, 'Ψηφιακός πολιτισμός και "εικονικά μουσεία": έννοιες, τάσεις, προκλήσεις' στο Λυριτζής, Ι. (επιμ.), Νέες Τεχνολογίες στις Αρχαιογνωστικές Επιστήμες, Σειρά Τεχνολογία & Πολιτισμός, Αθήνα: Εκδόσεις Gutenberg.
6. ΔΕΛΗΓΙΑΝΝΗ, Ε. (1999), Το δικαίωμα αναπαραγωγής των πνευματικών έργων στην κοινωνία των πληροφοριών, Ελληνική Επιθεώρηση Ευρωπαϊκού Δικαίου, σσ. 237-253.
7. Δημητρόπουλος, Κ. Εικονική πραγματικότητα και μοντέλα παραμόρφωσης στην ιατρική εκπαίδευση μέσω διαδικτύου, (Virtual reality and deformable modeling in web-based medical education) Διδακτορική Διατριβή, Πανεπιστήμιο Μακεδονίας, Ελλάδα 2006.
8. ΚΑΛΛΙΝΙΚΟΣ, Δ. (1998), Τελευταίες εξελίξεις στον τομέα της πνευματικής ιδιοκτησίας και των συγγενικών δικαιωμάτων σε διεθνές, κοινοτικό και εθνικό επίπεδο, Δίκαιο Επιχειρήσεων και Εταιρειών (ΔΕΕ), σελ. 6 επ. .
9. Καλλινίκου, Δ. Πνευματική Ιδιοκτησία και Βιβλιοθήκες, 2007, Εκδόσεις Σάκκουλας: Δίκαιο και Οικονομία, Αθήνα, Ελλάδα.
10. ΚΟΡΙΑΤΟΠΟΥΛΟΥ- ΑΓΓΕΛΗ, Π. (2001), Οι περιορισμοί και εξαιρέσεις των αποκλειστικών δικαιωμάτων στη νέα Οδηγία (άρθρο 5 Οδηγίας 2001/29/EC/22-5-2001), σε Κοινωνία των πληροφοριών και η πνευματική ιδιοκτησία, Η νέα κοινοτική ρύθμιση, εκδ. Αντ. Ν. Σάκκουλα, Αθήνα- Κομοτηνή, σσ. 59-89.
11. ΚΟΤΣΙΡΗΣ, Λ. (1999), Δίκαιο πνευματικής ιδιοκτησίας, 3η έκδ., εκδ. Σάκκουλα, Αθήνα- Θεσσαλονίκη.
12. ΚΟΥΜΑΝΤΟΣ, Γ. (2002), Πνευματική ιδιοκτησία, 8η έκδ., εκδ. Αντ. Ν. Σάκκουλα, Αθήνα- Κομοτηνή.
13. Κωνσταντόπουλος. Π., Μπεκιάρη. Χ και Ντερ. Μ. (2005). Το πρότυπο CIDOC CRM.
14. ΛΑΣΙΘΙΩΤΑΚΗΣ, Γ. (1994), Περί προστασίας προγραμμάτων ηλεκτρονικών υπολογιστών, Επιστημονική Επετηρίδα Αρμενόπουλου, σσ. 181-188.

15. Α. Μανιτσάρης, Ε. Αλεξανδροπούλου, Χ. Γεωργιάδης, Κ. Δημητρόπουλος, και Ι. Μαυρίδης, “Τεχνολογίες Πολυμέσων, Διαδικτύου και Παράμετροι Δικαίου, Ασφάλειας στην Ανάδειξη Αρχαιοτήτων», Κεφάλαιο στον τόμο «ΝΕΕΣ ΤΕΧΝΟΛΟΓΙΕΣ ΣΤΙΣ ΑΡΧΑΙΟΓΝΩΣΤΙΚΕΣ ΕΠΙΣΤΗΜΕΣ», επιμέλεια καθ. Ι. Λυριτζής, εκδόσεις GUTTENBERG, Απρίλιος 2008.
16. ΜΑΡΙΝΟΣ, Μ. –Θ. (1997), Νομική προστασία βάσεων δεδομένων. Το ιδιαίτερο (sui generis) δικαίωμα της Οδηγίας 96/9/ΕΟΚ, Δίκαιο Επιχειρήσεων και Εταιρειών, σσ. 128-135.
17. ΜΑΡΙΝΟΣ, Μ. –Θ. (2002), Η έννοια της αναπαραγωγής στο σύγχρονο δίκαιο της πνευματικής ιδιοκτησίας – κλασική και ψηφιακή αναπαραγωγή, Ελληνική Δικαιοσύνη, σσ. 1258-1268.
18. ΝΟΥΣΚΑΛΗΣ, Γ. (2003), Ποινική προστασία προγράμματος ηλεκτρονικού υπολογιστή στο ν. 2121/1993, εκδ. Σάκκουλα, Αθήνα- Θεσσαλονίκη.
19. Οικονόμου, Μ. 2004. ‘Νέες Τεχνολογίες στα Μουσεία: Εργαλείο, τροχοπέδη ή συρμός;’, ηλεκτρονικό Περιοδικό Μουσειολογίας, Πανεπιστήμιο Αιγαίου, 1.
20. ΣΙΔΗΡΟΠΟΥΛΟΣ, Θ. (2008), Το δίκαιο του διαδικτύου, 2η έκδ., Αθήνα- Θεσσαλονίκη.
21. Σκαλτσά Ματούλα (ed.) 1997: Η Μουσειολογία στον 21^ο αιώνα, θεωρία και πράξη: Πρακτικά Διεθνούς Συμποσίου (21-24 Νοεμβρίου 1997), Θεσσαλονίκη, Ελλάδα.
22. Σκούρτης, Δ. Η προστασία των φωτογραφιών κατά το δίκαιο της πνευματικής ιδιοκτησίας, Ελληνική Δικαιοσύνη, 1996
23. ΣΤΑΜΑΤΟΥΔΗ, Ε. (2001), Η προστασία των πολυμέσων ως λογισμικών, βάσεων δεδομένων ή οπτικοακουστικών έργων, Χρονικά Ιδιωτικού Δικαίου, σσ.785-791.
24. ΣΤΑΥΡΙΔΟΥ, Σ. (2001), Τα τεχνολογικά μέτρα στην υπηρεσία της διαχείρισης και προστασίας της πνευματικής ιδιοκτησίας, Η νέα κοινοτική ρύθμιση, εκδ. Αντ. Ν. Σάκκουλα, Αθήνα- Κομοτηνή, σσ. 91-124.
25. Συνοδινού, Τ-Ε. Η εικόνα στο δίκαιο, εκδ. Σάκκουλα, 2007.
26. ΣΥΝΟΔΙΝΟΥ, Τ. –Ε. (2004), Η νομική προστασία των βάσεων δεδομένων, εκδ. Σάκκουλα, Αθήνα- Θεσσαλονίκη.

27. ΣΥΝΟΔΙΝΟΥ, Τ. –Ε. (2001), Το κριτήριο της πρωτοτυπίας στο δίκαιο της πνευματικής ιδιοκτησίας, Αρμενόπουλος, σσ. 755-770.

c) Internet Sources:

1. <http://ec.europa.eu/>
2. <https://en.m.wikipedia.org>
3. <http://eur-lex.europa.eu/>
4. <http://dictionary.reference.com/>
5. <http://legal-dictionary.thefreedictionary.com/>
6. <http://skinnyartist.com>
7. <http://thenextweb.com>
8. <http://www.artslaw.com.au>
9. <https://www.academia.edu/>
10. <https://www.copyrightservice.co.uk>
11. <http://www.digital-copyright.ca/>
12. <http://www.drakopoulos-law.com/>
13. <http://www.kathimerini.gr/>
14. <http://www.merriam-webster.com/>
15. <http://www.old.tetravivlos.com/>
16. <http://www.poes.gr/>
17. <http://www.thefreedictionary.com/>
18. <http://www.wipo.int>

VI. APPENDIX (Law 2121/1993 Greek Copyright Law) - Articles used in Chapter III.

(Downloaded from URL: <http://www.opi.gr/>)

LAW 2121/1993 COPYRIGHT, RELATED RIGHTS AND CULTURAL MATTERS

SECTION I: OBJECT AND CONTENT OF COPYRIGHT

ARTICLE 1: COPYRIGHT

(1) Authors shall have, with the creation of the work, the right of copyright in that work, which includes, as exclusive and absolute rights, the right to exploit the work (economic right) and the right to protect their personal connection with the work (moral right).

(2) The above-mentioned rights shall include the powers to authorize that are provided for in Articles 3 and 4 of this Law.

ARTICLE 2: OBJECT OF THE RIGHT

(1) The term “work” shall designate any original intellectual literary, artistic or scientific creation, expressed in any form, notably written or oral texts, musical compositions with or without words, theatrical works accompanied or unaccompanied by music, choreographies and pantomimes, audiovisual works, works of fine art, including drawings, works of painting and sculpture, engravings and lithographs, works of architecture and photographs, works of applied art, illustrations, maps and three-dimensional works relative to geography, topography, architecture or science.

(2) The term “work” shall, in addition, designate translations, adaptations, arrangements and other alterations of works or of expressions of folklore, as well as collections of works or collections of expressions of folklore or of simple facts and data, such as encyclopedias and anthologies, provided the selection or the arrangement of their contents is original. Protection afforded to the works listed in this paragraph shall in no way prejudice rights in the preexisting works, which were used as the object of the alterations or the collections.

(2a.) Databases which, by reason of the selection or arrangement of their contents, constitute the author’s intellectual creation, shall be protected as such by copyright. The copyright protection shall not extend to the contents of databases and shall be without prejudice any rights subsisting in those contents themselves. “Database” is a collection of independent works, data or other, materials arranged in a systematic or methodical way and individually accessible by electronic or other means (articles 3 and 1 par. 2. of Dir. 96/9)

(3) Without prejudice to the provisions of Section VII of this Law, computer programs and their preparatory design material shall be deemed to be literary works within the meaning of the provisions on copyright protection. Protection in accordance with this Law shall apply to the expression in any form of a computer program. Ideas and principles which underlie any element of a computer program, including those which underlie its interfaces, are not protected under this Law. A computer program shall be protected if it is original in the sense that it is the author’s personal intellectual creation.

(4) The protection afforded under this Law shall apply regardless of the value of the work and its destination and regardless of the fact that the work is possibly protected under other provisions.

(5) The protection afforded under this Law shall not apply to official texts expressive of the authority of the State, notably to legislative, administrative or judicial texts, nor shall it apply to expressions of folklore, news information or simple facts and data.

ARTICLE 3: ECONOMIC RIGHTS

(1) The economic rights shall confer upon the authors notably the right to authorize or prohibit: (a) the fixation and direct or indirect, temporary or permanent reproduction of their works by any means and in any form, in whole or in part (b) the translation of their works (c) the arrangement, adaptation or other alteration of their works (d) concerning the original or copies of their works, the distribution to the public in any form by sale or otherwise. The distribution right shall be exhausted within the Community only where the first sale or other transfer of ownership in the

Community of the original or copies is made by the right holder or with his consent (e) the rental or public lending concerning the original or copies of their works. Such rights are not exhausted by any sale or other act of distribution of the original or copies. Such rights are not applicable to architectural works and works of applied arts. The rental and public lending have the meaning provided by the Council Directive 92/100 of 19 November 1992 (Official Journal of the European Communities No. L 346/61-27.11.1992). (f) the public performance of their works (g) the broadcasting or rebroadcasting of their works to the public by radio and television, by wireless means or by cable or by any kind of wire or by any other means, in parallel to the surface of the earth or by satellite (h) the communication to the public of their works, by wire or wireless means or by any other means, including the making available to the public of their works in such a way that members of the public may access these works from a place and at a time individually chosen by them. These rights shall not be exhausted by any act of communication to the public as set out in this provision. (i) the import of copies of their works produced abroad without the creator's consent or the import of copies from a country outside the European Community, when the right over such import in Greece had been retained by the author through contract" (articles 2, 3 par. 1 and 3, 4 of Directive 2001/29 OJEC L. 167/10 – 22.6.2001). As amended by article 81 par. 1 of law 3057/2002.

(2) The use, performance or presentation of the work shall be deemed to be "public" when the work thereby becomes accessible to a circle of persons wider than the narrow circle of the family and the immediate social circle of the author, regardless of whether the persons of this wider circle are at the same or at different locations.

(3) The author of a database shall have the exclusive right to carry out or to authorize: a) temporary or permanent reproduction by any means and in any form, in whole or in part, b) translation, adaptation, arrangement and any other alteration, c) any form of distribution to the public of the database or of copies thereof. The first sale in the Community of a copy of the database by the right holder or with his consent shall exhaust the right to control resale of that copy within the Community, d) any communication, display or performance to the public, e) any reproduction, distribution, communication, display or performance to the public of the results of the acts referred to in (b). The performance by the lawful user of a database or of a copy thereof of any of the acts listed above which is necessary for the purposes of access to the contents of the databases and normal use of the contents by the lawful user shall not require the authorization of the author of the database. Where the lawful user is authorized to use only part of the database, this provision shall apply only to that part. Any agreement contrary to the provisions of the previous two sentences shall be null and void" (articles 5, 6 para.1 and 15 of Directive 96/9). Paragraph 3 is added by article 7 par. 3 of Law 2819/2000.

(4) "Reproduction of electronic database for private use is not permitted". Paragraph 4 is added by article 81 par. 13A of Law 3057/2002.

ARTICLE 4: MORAL RIGHTS

The moral rights shall confer upon the author notably the following rights: to decide on the time, place and manner in which the work shall be made accessible to the public (publication); to demand that his status as the author of the work be acknowledged and, in particular, to the extent that it is possible, that his name be indicated on the copies of his work and noted whenever his work is used publicly, or, on the contrary, if he so wishes, that his work be presented anonymously or under a pseudonym; to prohibit any distortion, mutilation or other modification of his work and any offense to the author due to the circumstances of the presentation of the work in public; to have access to his work, even when the economic right in the work or the physical embodiment of the work belongs to another person; in those latter cases, the access shall be effected with minimum possible nuisance to the right holder; in the case of a literary or scientific work, to rescind a contract transferring the economic right or an exploitation contract or license of which his work is the object, subject to payment of material damages to the other contracting party, for the pecuniary loss he has sustained, when the author considers such action to be necessary for the protection of his personality because of changes in his beliefs or in the circumstances.

(2) With reference to the last case of the preceding paragraph, the rescission takes effect after the payment of the damages. If, after the rescission, the author again decides to transfer the economic right, or to permit exploitation of the work or of a like work, he must give, in priority, the former other contracting party the opportunity to reconstitute the old contract with the same terms or with terms similar to those which were in force at the time of the rescission.

(3) The moral rights shall be independent from the economic rights and shall remain with the author even after the transfer of the economic rights.

ARTICLE 5: REALE RIGHT-DROIT DE SUITE

(1) The author of an original work of art shall have a resale right, to be defined as an inalienable right inter vivos, which cannot be waived, even in advance, to receive a royalty based on the sale price obtained for any resale of the work, subsequent to the first transfer of the work by the author. This right shall apply to all acts of resale involving as sellers, buyers or intermediaries art market professionals, such as salesrooms, art galleries and, in general, any dealers in works of art. The royalty shall be payable by the seller. When an intermediary art market professional is involved, he shall share liability with the seller for payment of the royalty (article 1, paragraphs 1, 2 and 4 of Directive 2001/84).

(2) "Original work of art" means works of graphic or plastic art such as pictures, collages, paintings, drawings, engravings, prints, lithographs, sculptures, tapestries, ceramics, glassware and photographs, provided they are made by the artist himself or are copies considered to be original works of art. Copies of works of art, which have been made in limited numbers by the artist himself or under his authority, shall be considered to be "original works of art" for the purposes of the resale right. Such copies will normally have been numbered, signed or otherwise duly authorized by the artist. (Article 2 of Directive 2001/84)

(3) The royalty provided for in paragraph 1 shall be set at the following rates:

(a) 5% for the portion of the sale price up to EUR 50,000.00;

(b) 3% for the portion of the sale price from EUR 50,000.01 to EUR 200,000.00;

(c) 1% for the portion of the sale price from EUR 200,000.01 to EUR 350,000.01; (d) 0, 5% for the portion of the sale price from EUR 350,000.01 to EUR 500,000.00; (e) 0, 25% for the portion of the sale price exceeding EUR 500,000.00.

However, the total amount of the royalty may not exceed EUR 12,500.00 (articles 3 and 4 of Directive 2001/84).

(4) The sale prices referred to in the previous paragraph are net of tax (article 5 of Directive 2001/84).

(5) The royalty provided above shall be payable to the author of the work and, after his death, to those entitled under him/her.

(6) The management and protection of the resale right may be entrusted to collective management organizations operating by resolution of the Ministry of Culture, for the category of works referred to in paragraph 2. (Article 6 of Directive 2001/84)

(7) For a period of three years after the resale, beneficiaries and collective management organizations may require from any art market professional mentioned in paragraph 1 to furnish any information that may be necessary in order to secure payment of royalties in respect of the resale. The Greek Chamber of Visual Arts shall also be entitled to collect information. (Article 9 of Directive 2001/84)

(8) The term of protection of the resale right shall correspond to that laid down in articles 29, 30, 31, para. 1 and 2, of this law. (Article 8, paragraph 1, of Directive 2001/84)

(9) Authors who are nationals of third countries and their successors in title shall enjoy the resale right in accordance with national law only if legislation in the country of which the author or his/her successor in title is a national permits resale right protection in that country for Greek authors or authors from other EU Member States and their successors in title. Authors who are not nationals of a Member State but who have their habitual residence in Greece shall also enjoy the resale right (article 7, paragraphs 1 and 3, of Directive 2001/84)".

SECTION II: THE INITIAL SUBJECT OF COPYRIGHT

ARTICLE 6: THE INITIAL RIGHT HOLDER

- (1) The initial holder of the economic right and the moral right in a work shall be the author of that work.
- (2) The above-mentioned rights shall be vested in the author of a work without resort to any formality.

ARTICLE 7: WORKS OF JOINT AUTHORSHIP, COLLECTIVE AND COMPOSITE WORKS

- (1) The term "work of joint authorship" shall designate any work which is the result of the direct collaboration of two or more authors. The initial right holders in respect of the economic and moral rights in a joint work shall be the coauthors of that work. Unless otherwise agreed, the rights shall be shared equally by the coauthors.
- (2) The term "collective work" shall designate any work created through the independent contribution of several authors acting under the intellectual direction and coordination of one natural person. That natural person shall be the initial right holder of the economic right and the moral right in the collective work. Each author of a contribution shall be the initial right holder of the economic right and the moral right in his own contribution, provided that that contribution is capable of separate exploitation.
- (3) The term "composite work" shall designate a work which is composed of parts created separately. The authors of all of the parts shall be the initial co-right holders of the rights in the composite work, and each author shall be the exclusive initial holder of the rights of the part of the composite work that he has created, provided that that part is capable of separate exploitation.

ARTICLE 8: EMPLOYEE - CREATED WORKS

Where a work is created by an employee in the execution of an employment contract the initial holder of the economic and moral rights in the work shall be the author of the work. Unless provided otherwise by contract, only such economic rights as are necessary for the fulfillment of the purpose of the contract shall be transferred exclusively to the employer. The economic right on works created by employees under any work relation of the public sector or a legal entity of public law in execution of their duties is ipso jure transferred to the employer, unless provided otherwise by contract.

ARTICLE 9: AUDIOVISUAL WORKS

The principal director of an audiovisual work shall be considered as its author.

ARTICLE 10: PRESUMPTIONS

- (1) The person whose name appears on a copy of a work in the manner usually employed to indicate authorship, shall be presumed to be the author of that work. The same shall apply when the name that appears is a pseudonym, provided that the pseudonym leaves no doubt as to the person's identity.
- (2) In the case of collective works, computer programs or audiovisual works, the natural or legal person whose name or title appears on a copy of the work in the manner usually employed to indicate the right holder shall be presumed to be the right holder of the copyright in the particular work.
- "(3) Paragraph 1 of this article shall apply mutatis mutandis to the holders of rights related to copyright with regard to their protected subject matter, as well as to database creators for the special right" (article 5, item b', of Directive 2004/48)
- (4) The presumption referred to in paragraphs (1) and (2), above, may be rebutted by evidence to the contrary.

ARTICLE 11: FICTITIOUS INITIAL RIGHT HOLDER

SECTION III: TRANSFER, EXPLOITATION AND EXERCISE OF RIGHTS

ARTICLE 12: TRANSFER

ARTICLE 13: EXPLOITATION CONTRACTS AND LICENCES

(1) The author of the work may conclude contracts, by which he entrusts economic rights to the other contracting party (exploitation contracts). The other party to the contract undertakes the obligation to exercise the rights thus entrusted.

(2) The author of the work may authorize another person to exercise economic rights (exploitation licenses).

(3) Exploitation contracts and licenses may be exclusive or non-exclusive. Exclusive exploitation contracts and licenses shall empower the other contracting party to exercise the rights conferred by the contract or license excluding any third person. Non-exclusive exploitation contracts and licenses shall give the right to the other contracting party to exercise the rights conferred by the contract or license in parallel to the author and other contracting parties. In the absence of an agreement to the contrary, the other contracting party shall be entitled in his own name to seek legal protection against illegal infringements by third parties of the rights he exercises.

(4) Where doubt exists about the exclusivity of an exploitation contract or license the contract or license shall be deemed to be non-exclusive.

(5) The contract or license may in no circumstance confer any total right over the future works of the author, and shall never be deemed to refer also to forms of exploitation which were unknown on the date of the contract.

(6) The rights of a person who undertakes to carry out the exploitation of a work or who acquires the possibility of exploitation may not be transferred between living persons without the consent of the author.

ARTICLE 14: FORM OF LEGAL ACTS

ARTICLE 15: EXTENT OF TRANSFER AND OF EXPLOITATION CONTRACTS AND LICENCES

ARTICLE 16: CONSENT OF THE AUTHOR AS EXERCISE OF THE MORAL RIGHT

ARTICLE 17: TRANSFER OF THE PHYSICAL CARRIER

SECTION IV: LIMITATIONS ON THE ECONOMIC RIGHT

ARTICLE 18: REPRODUCTION FOR PRIVATE USE

ARTICLE 19: QUOTATION OF EXTRACTS

ARTICLE 20: SCHOOL TEXTBOOKS AND ANTHOLOGIES

ARTICLE 21: REPRODUCTION FOR TEACHING PURPOSES

ARTICLE 22: REPRODUCTION BY LIBRARIES AND ARCHIVES

ARTICLE 23: REPRODUCTION OF CINEMATOGRAPHIC WORKS

In cases where the holder of the economic right abusively withholds consent for the reproduction of a cinematographic work of special artistic value, for the purpose of preserving it in the National Cinematographic Archive, the reproduction shall be permissible without his consent and

without payment, subject to a decision by the Minister of Culture, taken in conformity with the prior opinion of the Cinematography Advisory Council.

ARTICLE 24: REPRODUCTION FOR JUDICIAL OR ADMINISTRATIVE PURPOSES

ARTICLE 25: REPRODUCTION FOR INFORMATION PURPOSES

ARTICLE 26: USE OF IMAGES OF WORKS SITED IN PUBLIC PLACES

ARTICLE 27: PUBLIC PERFORMANCE OR PRESENTATION ON SPECIAL OCCASIONS

ARTICLE 27A: CERTAIN PERMITTED USES OF ORPHAN WORKS

(1) It is permitted to be made accessible to the public within the meaning of article 3 (1) (h) and to be reproduced for the purposes of digitization, making available to the public, indexing, cataloging, preservation or restoration (permitted uses) by publicly accessible libraries, educational establishments or museums, archives or film or audio heritage institutions, as well as from public service broadcasting organizations established in a Member State of the European Union (beneficiaries of orphan works), works in their collections, for which no right holder has been identified or even if is identified, none has been located despite a diligent search carried out by the beneficiaries of orphan works, according to the terms of this article (orphan works).

(2) This regulation shall apply only to: a. works published in the form of books, journals, newspapers, magazines or other writings contained in the collections of publicly accessible libraries, educational establishments or museums as well as in the collections of archives or of film or audio heritage institutions; b. cinematographic or audiovisual works and phonograms contained in the collections of publicly accessible libraries, educational establishments or museums as well as in the collections of archives or of film or audio heritage institutions; c. cinematographic or audiovisual works and phonograms produced by public-service broadcasting organizations up to 31 December 2002 and contained in their archives; d. works and other protected subject-matter that are embedded or incorporated in, or constitute an integral part of, the above mentioned works or phonograms, to the extent that those works (of cases a, b, c, d) are protected by copyright or related rights and are first published in a Member State of the European Union or, if not published, are first broadcast in a Member State of the European Union. If these works are not published or broadcast, they can be used by the beneficiaries of orphan works only if: a) they have been made publicly accessible by anyone of the beneficiaries of orphan works (even in the form of a lending) with the consent of the right holders, and b) it is reasonable to assume that the right holders would not oppose the permitted uses referred to in this article.

(3) Where there is more than one right holder in a work or phonogram, and not all of them have been identified or, even if identified, located after a diligent search has been carried out and recorded in accordance with paragraphs 6 and 7, the work or phonogram may be used in accordance with the paragraphs hereinabove provided that the right holders that have been identified and located have, in relation to the rights they hold, authorized the beneficiaries of orphan works to carry out the permitted uses in relation to their rights.

(4) The use of orphan works is permitted to the beneficiaries of orphan works only in order to achieve aims related to their public-interest missions, in particular the preservation of, the restoration of, and the provision of cultural and educational access to, works and phonograms contained in their collections. The beneficiaries of orphan works may generate revenues in the course of such uses, for the exclusive purpose of covering their costs of digitizing orphan works and making them available to the public.

(5) The beneficiaries of orphan works indicate the name of identified authors and other right holders in any use of an orphan work with the following labelling: "Orphan work: [...] [no of entry in the Single Online Database of the Office for Harmonization in the Internal Market]".

(6) By issuing a decision, the Hellenic Copyright Organization Board of Directors will determine the appropriate sources for a diligent and in good faith search to be carried out by the beneficiaries of orphan works to identify and locate the right holders according to paragraph 1 in a work or phonogram, including works and protected subject matter contained in them prior to their use. The diligent search shall be carried out by the beneficiaries of orphan works or by third parties on behalf of the beneficiaries of orphan works, in the European Union Member State of the first

publication, or in the absence of publication, of the first broadcast. In respect of cinematographic or audiovisual works the producer of which has his headquarters or habitual residence in a Member State of the European Union the diligent search should be carried out in the Member State of his headquarters or habitual residence. If the works have neither been published nor broadcast pursuant to the last sentence of paragraph 2, the diligent search shall be carried out in the Member State of the European Union where the beneficiary of orphan works use that made the work publicly accessible is established. If there is evidence to suggest that a search in sources of information of other countries is to be carried out, the search in those other countries should be carried out also.

(7) Beneficiaries of orphan works that carry out a diligent search shall keep a search record on file throughout the term of use of the orphan work and seven (7) years after the termination of such use and provide concrete information to the Hellenic Copyright Organization, that shall immediately forward this information to the Single Online Database of the Office for Harmonization in the Internal Market. Such information shall contain: a) a full description of the orphan work and the names of the identified authors or right holders, b) the results of the diligent search carried out by the beneficiaries of orphan works, which led to the conclusion that a work or a phonogram is considered an orphan work, c) a statement from the beneficiaries of orphan works for the permitted uses they intend to make, d) a possible change to the orphan work status of a work (notification of new data that they have been informed of), e) contact information of the beneficiaries of orphan works, f) any other information as specified by decision of the Hellenic Copyright Organization Board of Directors and posted on the Hellenic Copyright Organization's website, according to the procedure determined by the Office for Harmonization in the Internal Market regarding the Database.

(8) A diligent search is not required for works that have already been recorded in the Single Online Database of the Office for Harmonization in the Internal Market as orphans. A work or phonogram shall be considered an orphan work if it has been characterized as such in any Member State of the European Union.

(9) If the right holder of a work or phonogram or other protected subject-matter that has been recorded as an orphan comes forward, then he has the right to put an end to the orphan work status of the work in so far as his rights are concerned and ask for the end of use of the work by the beneficiary of orphan works, as well as for the payment of compensation for the use of the work that has been made by the beneficiary of orphan works. The beneficiary of orphan works that makes use of the work is liable for the end of orphan work status of a work. The beneficiary of orphan works will have to decide within twenty (20) working days, calculated from the day following the date the application is filled by the person appearing as the right holder, if the application and the submitted evidence by the appearing as right holder is sufficient to establish a right on the specific orphan work, and it either characterizes the work as "non-orphan" or rejects the application. If the beneficiary of orphan works does not decide on the application within the above mentioned period or if, despite having approved the application, continues to make use of the work, then the provisions of articles 63A to 66D shall apply. If a work is rendered "non-orphan" according to the Single Online Database of the Office for Harmonization in the Internal Market the beneficiary of orphan works is obliged to end its use within ten (10) working days from the reception of the relevant notice from the above mentioned Office.

The compensation shall amount to half of the remuneration that is, usually or according to law, paid for the kind of use that has been made by the beneficiary of orphan works and the payment of such compensation shall be made within two (2) months from the end of orphan work status of a work. If the parties do not reach an agreement, the terms, the period, and the level of compensation shall be determined by the Court of First Instance of Athens by interim measures.

(10) In any case, if it is proven that a work has been wrongly found to be an orphan work due to a search which was not diligent and in good faith, then provisions of articles 63A to 66D shall apply.

(11) The Hellenic Copyright Organization shall not be liable for the diligent search carried out by a beneficiary of orphan works, nor liable whether an orphan work status of a work is established or is ended.

(12) This article shall be without prejudice to the provisions on anonymous or pseudonymous works, and to the provisions on rights management according to the current law" (as added with article 7 of Law 4212/2013).

ARTICLE 28: EXHIBITION AND REPRODUCTION OF FINE ART WORKS

ARTICLE 28A: REPRODUCTION FOR THE BENEFIT OF BLINDS AND DEAF-MUTE

ARTICLE 28B: EXCEPTION FROM THE REPRODUCTION RIGHT

ARTICLE 28C: CLAUSE OF GENERAL APPLICATION CONCERNING THE LIMITATIONS

SECTION V: DURATION OF PROTECTION

ARTICLE 29: DURATION IN GENERAL

(1) Copyright shall last for the whole of the author's life and for seventy (70) years after his death, calculated from 1st January of the year after the author's death.

(2) After the expiry of the period of copyright protection, the State, represented by the Minister of Culture, may exercise the rights relating to the acknowledgment of the author's paternity and the rights relating to the protection of the integrity of the work deriving from the moral rights pursuant to Article 4(1)(b) and (1)(c) of this Law.

ARTICLE 30: WORKS OF JOINT-AUTHORSHIP AND MUSICAL COMPOSITIONS WITH LYRICS

ARTICLE 31: SPECIAL COMMENCEMENT OF THE DURATION

(1) In the case of anonymous or pseudonymous works, the term of copyright shall last for seventy (70) years computed from 1st January of the year after that in which the work is lawfully made available to the public. However if, during the above period, the author discloses his identity or when the pseudonym adopted by the author leaves no doubt as to his identity, then the general rules apply.

(2) Where a work is published in volumes, parts, instalments, issues or episodes and the term of protection runs from the time when the work was lawfully made available to the public, the term of protection shall run for each such item separately.

(3) The term of protection of audiovisual works shall expire seventy years after the death of the last of the following persons to survive: the principal director, the author of the screenplay, the author of the dialogue and the composer of the music specifically created for use in the audiovisual work".

SECTION VI: RULES RELATING TO EXPLOITATION CONTRACTS AND LICENSES

ARTICLE 32: PERCENTAGE FEE

ARTICLE 33: RULES RELATING TO CONTRACTS FOR PRINTED EDITIONS AND TRANSLATORS' RIGHTS

ARTICLE 34: RULES RELATING TO AUDIOVISUAL PRODUCTION CONTRACTS

(1) A contract dealing with the creation of an audiovisual work between a producer and an author shall specify the economic rights which are to be transferred to the producer. If the aforementioned provision is not met, the contract shall be deemed to transfer to the producer all the economic rights which are necessary for the exploitation of the audiovisual work, pursuant to the purpose of the contract. When the master from which copies for exploitation are to be made, is approved by the author, the audiovisual work shall be deemed to be accomplished. No alteration, abridgment or other modification shall be made to the definitive form of the audiovisual work, as the latter has been approved by the author, without his prior consent. Authors of individual contributions to an audiovisual work may exercise their moral right only in relation to the definitive form of the work, as approved by the author.

(2) The contract between the producer of an audiovisual work and the creators of individual contributions incorporated in the work, shall specify the economic rights which are transferred to the producer. If the aforementioned provision is not met, the contract between the producer and the authors of individual contributions, other than the composers of music and writers of lyrics, shall be deemed to transfer to the producer those powers under the economic right which are necessary for the exploitation of the audiovisual work, pursuant to the purpose of the contract. Where the contributions to an audiovisual work are capable of separate use, the economic right in relation to other uses shall remain with their authors. Authors of audiovisual contributions are considered to be the author of the screenplay, the author of the dialogue, the composer of music, the director of photography, the stage designer, the costume designer, the sound engineer and the final prosecutor (editor).

(3) The author of an audiovisual work shall retain the right to a separate fee for each form of exploitation of the work. The aforementioned fee shall be agreed as a percentage, specified in the relevant contract. The calculation of the percentage shall be based on gross revenues, without exception, or the gross expenditure or on the combined gross revenues and expenditure, realized in the course of the exploitation of the work. The producer of the audiovisual work is obliged once a year to give the author of the work all information concerning the exploitation of the work, in writing, showing him also all relevant documents. Short advertising films shall be exempt from the provisions of this paragraph.

(4) When visual or audiovisual recordings carrying a fixation of an audiovisual work are the object of a rental arrangement, the author shall in all cases retain the right to an equitable remuneration. This provision shall apply also in the case of a rental arrangement relating to sound recordings.

ARTICLE 35: RULES RELATING TO BROADCASTING BY RADIO AND TELEVISION

(1) In the absence of an agreement to the contrary, the rebroadcasting of a work by radio or television shall require no consent from the author additional to that granted for the first broadcasting. However, when a broadcasting organization rebroadcasts a work it shall pay an additional fee to the author. For the first rebroadcast, the fee payable shall be at least 50 percent of the initial fee agreed for the first broadcast, and for each subsequent broadcast the additional fee shall be 20 percent of the initial fee. This provision shall not apply to the arrangements between collecting societies and users referred to in Article 56 of this Law.

(2) In the absence of an agreement to the contrary, the contract between an author and a broadcasting organization shall not empower the broadcasting organization to permit third parties to broadcast or rebroadcast to the public the work, which is the object of the contract, by wireless waves or by wire or by any other means, in parallel to the surface of the earth or by satellite.

(3) The act of communication of a work to the public by satellite occurs solely in the European Union Member State where, under the control and responsibility of the broadcasting organization, the program-carrying signals are introduced into an uninterrupted chain of communication leading to the satellite and down towards the earth. If the program-carrying signals are encrypted, then there is communication to the public by satellite on condition that the means for decrypting the broadcast are provided to the public by the broadcasting organization or with its consent. Where an act of communication to the public by satellite occurs in a non-Community State which does not provide the level of protection provided for under this law, as amended hereby, i) if the program-carrying signals are transmitted to the satellite from an uplink situation situated in a Member State, that act of communication to the public by satellite shall be deemed to have occurred in that Member State and the rights shall be exercisable against the person operating the uplink station. ii) if there is no use of an uplink station situated in a Member State but a broadcasting organization established in a Member State has commissioned the act of communication to the public by satellite, that act shall be deemed to have occurred in the Member State in which the broadcasting organization has its principal establishment in the Community and the rights shall be exercisable against the broadcasting organization. Communication to the public by satellite means the act of introducing, under the control and responsibility of the broadcasting organization, the program-carrying signals intended for reception by the public into an uninterrupted chain of communication leading to the satellite and down towards the earth. The authorization to communicate a work to the public by satellite is acquired only by agreement.

(4) Cable retransmission of programs from other European Union Member States to Greece take place, as far as copyright is concerned, in accordance with the provisions hereof and on the basis of individual or collective contractual agreements between copyright owners, holders of related rights and cable operators. Where no agreement is concluded regarding authorization of the cable retransmission of a broadcast, either

party may call upon the assistance of one or more mediators selected from the list of mediators drafted by the Copyright Organization every two years. The Copyright Organization may consult the collecting societies and cable operators for the drafting of the said list. Mediators may submit proposals to the parties. It shall be assumed that all parties accept a proposal if none of them expresses its opposition within a period of three (3) months from the notification of the proposal. Cable retransmission means the simultaneous, unaltered and unabridged retransmission by a cable or microwave system for reception by the public of an initial transmission from another Member State, by wire or over the air, including that by satellite, of television or radio programs intended for reception by the public”.

ARTICLE 36: THEATRICAL PERFORMANCE FEE

ARTICLE 37: MUSICAL ACCOMPANIMENT OF FILMS

ARTICLE 38: PHOTOGRAPHERS' RIGHTS

(1) In the absence of an agreement to the contrary, a transfer of the economic right or exploitation contract or license dealing with the publication of a photograph in a newspaper, periodical or other mass media shall refer only to the publication of the photograph in the particular newspaper, periodical or mass media specified in the transfer or exploitation contract or license and to the archiving of the photograph. Every subsequent act of publication shall be subject to payment of a fee equal to half the current fee. The publication of a transferred photograph from the archive of a newspaper, periodical or other mass media shall be permitted only when accompanied by a reference to the title of the newspaper or of the periodical or to the name of the mass media, into whose archive the photograph was initially and lawfully placed.

(2) Where the publication of a photograph is facilitated by the surrender of the photographic negative, use shall be made of the negative, in the absence of an agreement to the contrary, only for the first publication of the photograph, after which the negative shall be returned to the photographer.

(3) The photographer shall retain the right to access and request the return to him of his photographs, which have been the object of an exploitation contract or license arrangement with a particular newspaper, periodical or other mass media and which have remained unpublished three months after the date of the exploitation contract or license.

(4) Each act of publication of a photograph shall be accompanied by a mentioning of the photographer's name. This shall apply likewise when the archive of a newspaper or of a periodical or of another mass media is transferred.

(5) The owner of a newspaper or of a periodical shall not be entitled to publish a photograph created by a photographer, employed by him, in a book or album publication without the employee's consent. This shall apply likewise to the lending of a photograph.

ARTICLE 39: NULLITY OF CONTRARY AGREEMENT

SECTION VII: SPECIAL PROVISIONS CONCERNING COMPUTER PROGRAMS AND THE SUI GENERIS RIGHT OF THE DATABASE MAKER

ARTICLE 40: PROGRAMS CREATED BY EMPLOYEES

ARTICLE 41: EXHAUSTION OF A RIGHT

ARTICLE 42: RESTRICTIONS

ARTICLE 43: DECOMPILATION

ARTICLE 44 HAS BEEN ABOLISHED BY ARTICLE 8 PAR. 8 OF LAW 2557/1997.

ARTICLE 45: VALIDITY OF OTHER PROVISIONS AND AGREEMENT

ARTICLE 45A: SUI GENERIS RIGHT OF THE MAKER OF THE DATABASE

(1) The maker of a database has the right, which shows that there has been qualitatively and/or quantitatively a substantial investment in either the obtaining, verification or presentation of the contents, to prevent extraction and/or re-utilization of the whole or of a substantial part, evaluated qualitatively and/or quantitatively, of the contents of that database. The maker of a database is the individual or legal entity who takes the initiative and bears the risk of investment. The database contractor is not considered as maker (article 7 para.1 of Directive 96/9).

(2) For the purposes of this article: a) "extraction shall mean the permanent or temporary transfer of all or a substantial part of the contents of a database to another medium by any means or in any form, and b) "re-utilization" shall mean any form of making available to the public all or a substantial part of the contents of a database by the distribution of copies, by renting, by on-line or other forms of transmission. The first sale of a copy of a database within the Community by the right holder or with his consent shall exhaust the right to control resale of that copy within the Community. Public lending is not an act of extraction or re-utilization (article 7, par. 2 of Directive 96/9).

(3) The right referred to in paragraph 1 is effective regardless of whether the said database or the content thereof are protected by the provisions on copyright or other provisions. Protection on the basis of the right referred to in paragraph 1 does not prejudice potential rights on their content. The sui generis right of the maker of a database may be transferred with or without consideration and its exploitation may be assigned by license or contract (article 7 para.3 and 4 of Directive 98/9).

(4) The repeated and systematic extraction and/or re-utilization of immaterial parts of the content of the database are not allowed, if they involve actions opposed to the normal exploitation of the database or unjustifiably prejudice the lawful rights of the maker of the database (article 7, para.5 of Directive 96/9).

(5) The maker of a database made available to the public by any means cannot prevent the lawful utilization of the database from extracting and/or re-using immaterial parts of its content, being evaluated qualitatively or quantitatively, for any purpose. If the lawful user is entitled to extract and/or re-utilize part only of the database, the present paragraph is applicable only to such part. The lawful user of a database made available to the public by any means cannot: a) perform acts that are opposed to the normal exploitation of such database or unjustifiably prejudice the lawful interests of the maker thereof, b) cause damage to the beneficiaries of the copyright or related rights for works or performances contained in the said database. Any agreements contrary to the arrangements provided for in the present paragraph are null and void (articles 8 and 15 of Directive 96/9).

(6) The lawful user of a database made available to the public by any means may, without the permission of the maker of the database, extract and/or re-utilize a material part of its content: a) when the extraction is made for educational or research purposes, provided that the source is quoted, and to the extent that it is justified by the non-commercial purpose pursued, b) when the extraction and/or re-utilization is made for reasons of public safety or for purposes of administrative or judicial procedure. The sui generis right is effective for databases whose makers or beneficiaries are citizens of a member-state or have their usual residence on Community territory. It is also applicable to companies and firms established in accordance with the legislation of a member-state, whose registered offices, central administration or main establishment are located within the Community. When the specific company or firm has only its registered office in the territory of the Community, its operations must be genuinely linked on an ongoing basis with the economy of a member-state (articles 9 and 11 of Directive 96/9).

(7) The right provided for in this article shall run from the date of completion of the making of the database. It shall expire fifteen (15) years from the first of January of the year following the date of completion. In the case of a database which is made available to the public in whatever manner before expiry of the period provided for above, the term of protection by that right shall expire fifteen years from the first of January of the year following the date when the database was first made available to the public. Any substantial change, evaluated qualitatively and/or quantitatively, to the contents of a database, including any substantial change resulting from the accumulation of successive additions, deletions or alterations, which would result in the database being considered to be a substantial new investment, evaluated qualitatively and/or quantitatively, shall qualify the database resulting from that investment for its own term of protection" (article 10 of Directive 96/9).

SECTION VIII: RELATED RIGHTS

ARTICLE 46: LICENSE BY PERFORMERS

(1) The term “performers” shall designate persons who in any way act or perform works, such as actors, musicians, singers, chorus singers, dancers, puppeteers, shadow theater artists, variety performers or circus artists.

(2) The performers or performing artists have the right to authorize or prohibit: a) the fixation of their performance b) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part, concerning the fixation of their performance c) the distribution to the public of the fixation of their performance, by sale or other means. The distribution right shall not be exhausted within the Community in respect of the fixation of the performance except where the first sale in the Community is made by the right holder or with his consent d) the rental and public lending of the fixation of their performance. Such rights are not exhausted by any sale or other act of distribution of the said recordings. e) the radio and television broadcasting of the illegal fixation by any means, such as wireless waves, satellites, or cable as well as the communication to the public of a recording with an illegal fixation of their live performances f) the radio and television broadcasting by any means, such as wireless waves, satellites, or cable, of their live performance, except where the said broadcasting is rebroadcasting of a legitimate broadcasting. g) the communication to the public of their live performances made by any means other than radio or television transmission h) the making available to the public of fixations of their performances, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them. This right is not exhausted by any act of making available to the public, in the sense of this provision” (articles 2, 3 par. 2 and 3, 4 of Directive 2001/29).

(3) Subject to contractual clauses to the contrary, explicitly specifying which acts are authorized, the acts listed in paragraph (2), above, shall be presumed to have been authorized when a performer has entered into an employment contact, having as its object the operation of those particular acts, with a party who is doing such acts. The performer shall at all times retain the right to remuneration for each of the acts listed in paragraph (2), above, regardless of the form of exploitation of his performance. In particular, the performer shall retain an unwaivable right to equitable remuneration for rental, if he has authorized a producer of sound or visual, or audiovisual recordings, to rent out recordings carrying fixations of his performance.

(4) Where a performance is made by an ensemble, the performers making up the ensemble shall elect and appoint in writing one representative to exercise the rights listed in paragraph (2) above. This representation shall not encompass orchestral conductors, choir conductors, soloists, main role actors and principal directors. If the performers making up an ensemble fail to appoint a representative, the rights listed in paragraph (2), above, shall be exercised by the director of the ensemble.

(5) It is prohibited to transfer during the lifetime of the performer and to waive the rights referred to in paragraph (2), above. The administration and protection of the aforementioned rights may be entrusted to a collecting society pursuant to Articles 54 to 58 of this Law.

ARTICLE 47: LICENSE BY PRODUCERS OF SOUND AND VISUAL RECORDINGS

(1) The phonogram producers (producers of sound recordings) have the right to authorize or prohibit: a) the direct or indirect, temporary or permanent reproduction by any means and in any form, in whole or in part, of their phonograms b) the distribution to the public of the above recordings by sale or other means. The distribution right shall not be exhausted within the Community in respect of the said recordings except where the first sale in the Community is made by the rightholder or with his consent c) the rental and public lending of the said recordings. Such rights are not exhausted by any sale or other act of distribution of the said recordings d) the making available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them concerning their

phonograms. This right is not exhausted by any act of making available to the public in the sense of this provision. e) the import of the said recordings produced abroad without their consent or the import from a country outside the European Community when the right over such import in Greece had been retained by the producer through contract". (Articles 2, 3 par. 2 and 3, 4 of Directive 2001/29).

(2) The producers of audiovisual works (producers of visual or sound and visual recordings) have the right to authorize or prohibit: a) the direct or indirect, temporary or permanent reproduction by any means and form, in whole or in part, of the original and copies of their films b) the distribution to the public of the above recordings, by sale or other means. The distribution right shall not be exhausted within the Community in respect of the said recordings except where the first sale in the Community is made by the right holder or with his consent c) the rental and public lending of the said recordings. Such rights are not exhausted by any sale or other act of distribution of the said recordings d) the making available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them concerning the original and the copies of their films. This right is not exhausted by any act of making available to the public in the sense of this provision e) the import of the said recordings produced abroad without their consent or the import from a country outside the European Community when the right over such import in Greece had been retained by the producer through contract", f) the broadcasting of the said recordings by any means including by satellite or cable, as well as the communication to the public. (Articles 2, 3 par. 2 and 3, 4 of Directive 2001/29).

(3) The term "producer of sound recordings" shall designate any natural or legal person who initiates and bears the responsibility for the realization of a first fixation of a series of sounds only. The term "producer of visual or sound and visual recordings" shall designate any natural or legal person who initiates and bears responsibility for the realization of a first fixation of a series of images with or without sound.

ARTICLE 48: LICENSE FROM RADIO OR TELEVISION ORGANIZATIONS

ARTICLE 49: RIGHT TO EQUITABLE REMUNERATION

(1) When sound recordings are used for a radio or television broadcast by any means, such as wireless waves, satellite or cable, or for communication to the public, the user shall pay a single and equitable remuneration to the performers whose performances are carried on the recordings and to the producers of the recordings. This remuneration shall be payable only to collecting societies. The said collecting societies shall be responsible for negotiating and agreeing the remuneration levels, raising the claims for the payment and collecting the remuneration from the users. Where there is a dispute between the users and the collecting societies, the level of the equitable remuneration and the terms of payment shall be determined by the single-member court of first instance pursuant to the cautionary measures procedure at the request of collecting societies (as amended with article 46 Law 3905/2010). The final judgment concerning the remuneration shall be rendered by the competent court.

(2) Without prejudice to the obligatory assignment of the administration of rights and the collection of the remuneration by collecting societies operating according to Articles 54 to 58 of the Law, the right of performers to the reasonable remuneration prescribed under paragraph (1), above, shall not be assignable.

(3) The collected remuneration shall be distributed in order of 50 percent to the performers and 50 percent to the producers of the recordings. The distribution of the collected remuneration among the various performers and among the various producers shall be effected pursuant to agreements among them that are contained in the rules of each collecting society.

(4) Performers shall have the right to an equitable remuneration in respect of any radio or television rebroadcast of their performance transmitted by radio or television. Without prejudice to the possibility of assigning the administration of rights and the collection of remuneration to collecting societies according to the provisions of Articles 54 to 58 of this Law, an equitable remuneration prescribed in this paragraph shall not be assignable.

(5) “When visual or audiovisual recordings are used for radio or television broadcast by any means, such as wireless waves, satellite or cable or communication to the public, the user shall pay equitable remuneration to the performers, whose performances are carried on the recordings. The provisions of paragraph 1 item b, c, d and e, as well as paragraphs 2 and 4 of the present article shall be applicable mutatis mutandis”.

(6) Collecting societies of related rights operating with the approval of the Minister of Culture and Tourism may establish a single collecting society for the collection of the single equitable remuneration as referred to in paragraphs 1, 2 and 3 of this article. Collecting societies operating with the approval of the Minister of Culture exclusively assign to the single collecting society the power to negotiate, agree the level of pay, raise the relevant claims for payment, raise a court action or any extra-judicial action and collect relevant fees from users. During its operation the single collecting society of related rights has the sole responsibility to negotiate, agree the level of pay, raise the relevant claims for payment, raise a court action or any extra-judicial action and collect relevant fees from users. In case of disagreement between the single collecting society and the users, the amount of equitable remuneration payable and the terms of payment are determined by a single member court in the proceedings for interim relief. At the request of the single collecting society, the competent court issues its final judgement on the remuneration.

For the single collecting society of related rights to be granted approval and any other matter pertaining to collective management, the provisions of Articles 54 to 58 of Law 2121/1993 apply.

(7) Pending litigation during the time that the single collecting society is being established is pursued by the original parties until it is irrevocably resolved (as added with article 46 of Law 3905/2010).

ARTICLE 50: MORAL RIGHT

ARTICLE 51: RIGHTS OF PUBLISHERS

ARTICLE 51A: PROTECTION OF PREVIOUSLY UNPUBLISHED WORKS

ARTICLE 52: FORM OF THE LICENSE, LIMITATIONS AND DURATION OF THE RIGHTS AS WELL AS THE REGULATION OF OTHER ISSUES.

The rights prescribed in Articles 46 to 51 of this Law shall be subject to the following rules:

(a) Agreements concerning those rights shall be valid legal agreements only when concluded in writing;

(b) The limitations applicable to the economic right attaching to copyright shall apply mutatis mutandis;

(c) The protection of performers provided in Articles 46 and 49 of the present law will expire fifty (50) years after the date of the performance, but cannot be less than the life of the performer. However, - if a fixation of the performance otherwise than in a phonogram is lawfully published or lawfully communicated to the public within this period, the rights shall expire fifty (50) years from the date of the first such publication or the first such communication to the public, whichever is the earlier, - if a fixation of the performance in a phonogram is lawfully published or lawfully communicated to the public within this period, the rights shall expire seventy (70) years from the date of the first such publication or the first such communication to the public, whichever is the earlier (as amended with article 3 Law 4212/2013).

(d) The rights of phonogram producers (producers of sound recordings) shall expire 50 years after the fixation is made. However, if the phonogram has been lawfully published within this period, the said rights shall expire 70 (as amended with article 4 Law 4212/2013) years from the date of the first lawful publication. If no lawful publication has taken place within the period mentioned in the first sentence, and if the phonogram has been lawfully communicated to the public within this period, the said rights shall expire 70 (as amended with article 4 Law 4212/2013) years from the date of the first lawful communication to the public. However, where through the expiry of the term of protection granted pursuant to this paragraph in its version before the amendment by Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society, the rights of producers of phonograms are no longer protected on 22 December 2002, this paragraph shall not have the effect of protecting those rights anew (article 11, par.2 of Directive 2001/29).

aa) If, fifty years after the phonogram was lawfully published or, failing such publication, fifty (50) years after it was lawfully communicated to the public, the phonogram producer does not offer copies of the phonogram for sale in sufficient quantity to meet the market needs or does not make it available to the public, by wire or wireless means, in such a way that members of the public may access it from a place and at a time individually chosen by them, the performer may terminate the contract by which the performer has assigned to a phonogram producer at least the exploitation of his reproduction, distribution and making available to the public rights in the fixation of his performance. The right to terminate this contract may be exercised if the producer, within one (1) year from the written notification by the performer of his intention to terminate the contract pursuant to the previous sentence, fails to carry out both of the acts of exploitation referred to in that sentence. If the above mentioned rights have been transferred to a third party, pursuant to sub case (gg), the written notification will be exercised against the producer, as he is defined in sub case (gg). The right to terminate may not be waived by the performer. Where a phonogram contains the fixation of the performances of a plurality of performers, they may terminate the contracts of the first sentence pursuant to the first sentence of paragraph 4, article 46. If no representative is determined, the provisions of the community of right shall be applied. The termination of the contract of the first sentence in this case has as a legal consequence the expiration of the phonogram producers' rights and any other third party's rights that derives rights of him.

bb) where a contract of the first sentence of the sub case (aa) gives the performer a right to claim a non-recurring remuneration, the performer shall have the right to obtain an annual supplementary remuneration from the phonogram producer for each full year following the 50th year after the phonogram was lawfully published or, failing such publication, the 50th year after it was lawfully communicated to the public. The payment has to take place within six (6) months from the end of each financial year. The right to obtain such annual supplementary remuneration may not be waived by the performer.

cc) the overall amount to be set aside by a phonogram producer for payment of the annual supplementary remuneration referred to in sub case bb) shall correspond to 20% of the revenue which the phonogram producer has derived, during the year preceding that for which the said remuneration is paid, from the reproduction, distribution and making available of the phonogram in question, following the 50th year after it was lawfully published or, failing such publication, the 50th year after it was lawfully communicated to the public.

dd) the right to obtain an annual supplementary remuneration as referred to in sub case (bb) is administered by the collecting societies of the performers.

ee) Phonogram producers are required on request to provide annually and in total (for all performers who are entitled to the annual supplementary remuneration and for all the phonograms) to the collecting societies which administer the annual supplementary remuneration of sub case (bb), any information which may be necessary in order to secure payment of that remuneration.

ff) where a performer is entitled to recurring payments, neither advance payments nor any contractually defined deductions, in relation to the specific phonogram, shall be deducted from the payments made to the performer following the 50th year after the phonogram was lawfully published or, failing such publication, the 50th year after it was lawfully communicated to the public.

gg) a phonogram producer for the purpose of the above mentioned subcases (aa) to (ff) is considered to be the primary beneficiary or the successor in title or any third party that the relevant rights have been transferred to (as added with article 4 Law 4212/2013).

e) "The rights of producers of audiovisual works (producers of sound and visual recordings) shall expire fifty (50) years after the fixation is made. However, if lawful publication or lawful communication of the device is made to the public within such period, such rights shall expire 50 years from the date of first publication or first communication to the public, whichever comes first".

f) The rights of broadcasting organizations provided for in article 48 of the present law shall expire fifty (50) years after the date of the first transmission of a broadcast, whether this broadcast is transmitted by wire or over the air, including by cable or satellite or any other means of transmission.

g) The rights of editors provided for in article 51 of the present law shall expire fifty (50) years after the last edition of the work.

h) The term fixed in cases c', d', e' and f' of the present article is calculated from 1st January of the year following the event which gives rise to them.

i) For the purposes of communication to the public by satellite and cable retransmission, the rights of performers, producers of sound or visual or sound and visual recordings as well as broadcasting organizations are protected in accordance with the provisions of the eighth section of the present law, and the provisions of paragraphs 3 and 4 of article 35 of the present law are applied accordingly”.

ARTICLE 53: PROTECTION OF COPYRIGHT

The protection provided under Articles 46 to 52 of this Law shall leave intact and shall in no way affect the protection of copyright. In no circumstance shall any of the provisions of the aforementioned Articles be interpreted in such a manner as to lessen that protection. Where performers, producers of sound or visual or audiovisual recordings, radio or television organizations and publishers acquire the copyright in a work in addition to related rights, such rights shall apply in parallel with each other and shall confer the rights deriving therefrom.

SECTION IX: ADMINISTRATION BY COLLECTING SOCIETIES

ARTICLE 54: ASSIGNATION OF ADMINISTRATION

ARTICLE 55: THE COMPETENCE OF COLLECTING SOCIETIES

ARTICLE 56: RELATIONS WITH USERS

ARTICLE 57: RELATIONS WITH AUTHORS

ARTICLE 58: APPLICATION TO RELATED RIGHTS

SECTION X: MEASURES TO PREVENT INFRINGEMENTS

ARTICLE 59: IMPOSITION OF AND ADHERENCE TO SPECIFICATIONS

ARTICLE 60: USE OF CONTROL SYSTEMS

ARTICLE 61: CONTROL LABELING

ARTICLE 62: PROHIBITION OF DECODING

ARTICLE 63: STOPPING AN INFRINGEMENT OR ITS CONTINUATION

SECTION XI: LEGAL PROTECTION

ARTICLE 63A: EVIDENCE

ARTICLE 63B: LEGAL COSTS

ARTICLE 64: INJUNCTION MEASURES AND PRECAUTIONARY EVIDENCE

(1) In case of alleged infringement of copyright or related right provided for by articles 46 to 48 and 51 or the special right of database creators, the One-member First Instance Court shall order the precautionary seizure of items in the possession of the alleged infringer that constitute means of commission or product or evidence of the infringement. Instead of precautionary seizure, the court may order the detailed description of such items, including the taking of photographs. Article 687§1 of the Code of Civil Procedure shall be applied in such cases and a provisional order shall be issued according to article 691§2 of the Code of Civil Procedure. (Article 7 of Directive 2004/48)

(2) The court shall order injunction measures or precautionary evidence without needing to specify the works infringed or in threat of infringement.

(3) The court may issue against the alleged infringer an injunction intended to prevent any imminent infringement of the rights under this law or to forbid, on a provisional basis and subject, where appropriate, to a penalty payment under article 947 of the Code of Civil Procedure for each infringement or continuation of the infringements of that right. The procedure of articles 686 et seq. of the Code of Civil Procedure shall be applicable in order to ascertain the infringement of the ordered injunction or the pertinent provision of article 691§2 of the Code of Civil Procedure. The court may make such continuation subject to the lodging of guarantees intended to ensure the compensation of the right holder. The court may also order the precautionary seizure or delivery up of the goods suspected of infringing rights under this law so as to prevent their entry into or movement within the channels of commerce.

(4) In the case of an infringement committed on a commercial scale, court may order the precautionary seizure of the property of the alleged infringer, including the blocking of his/her bank accounts. To that end, the court may order the communication of bank, financial or commercial documents, or appropriate access to the relevant information.

(5) The injunction measures referred to in paragraphs 3 and 4 may, in appropriate cases, be taken without the defendant having been heard, under article 687§1 of the Code of Civil Procedure, in particular where any delay would cause irreparable harm to the right holder. In that event, if the decision or the order of the court is not notified to the defendant before or during its enforcement, it shall be notified on the first business day following the enforcement; otherwise, any relevant procedural acts shall be null and void.

(6) The court may make the provisional measures referred to in paragraphs 1, 3 and 4 subject to the lodging by the applicant of security determined in the decision or provisional order and/or without guarantee and shall specify a time limit for the lodging of the action for the main case under article 693§1 of the Code of Civil Procedure, which cannot be more than thirty days. If no action is lodged within the said time limit, the injunction shall be lifted ipso jure.

(7) Where the provisional measures are revoked due to any act or omission by the applicant, or where it is subsequently found that there has been no infringement or threat of infringement of the rights under this law, the court may order the applicant, upon request of the defendant, to provide the defendant appropriate compensation for any injury caused by those measures". (Articles 7 and 9 of Directive 2004/48)

ARTICLE 64A: INJUNCTION

Right holders may apply for an injunction against intermediaries whose services are used by a third party to infringe a copyright or related right. It is the same for the sui generis right of data base maker.

ARTICLE 65: CIVIL SANCTIONS

(1) "In any case of infringement or threat of infringement of copyright or related rights, the author or the right holder may claim the recognition of this right, the discontinuation of the infringement and its omission in the future. The discontinuation of the infringement may include, at the request of the applicant: (a) recall from the channels of commerce of goods that they have found to be infringing rights under this law and, in appropriate cases, with regard to materials and implements principally used in the creation or manufacture of those goods, (b) definitive removal from the channels of commerce, or (c) destruction. The rights of the first sentence of this paragraph shall be exercised by right holders against intermediaries whose services are used by a third party to infringe rights under this law". (Articles 10, paragraph 1, and 11 of Directive 2004/48)

(2) A person who by intent or negligence infringes copyright or a related right of another person shall indemnify that person for the moral damage caused, and be liable for the payment of damages of not less than twice the legally required or normally payable remuneration for the form of exploitation which the infringing party has effected without license.

(3) Instead of seeking damages, and regardless of whether the infringement was committed by intent or negligence, the author or the right holder of the related right may demand either the payment of the sum accrued by the infringing party from the unlicensed exploitation of a work, or of the object of a related right, pursuant to Articles 46 to 48 and 51 of this Law, or the profit gained by the infringing party from such an exploitation.

(4) For each act of omission contributing to an infringement, the court may impose a fine of from 300,000 to 1 million drachmas payable to the author or to the right holder of the related rights referred to Articles 46 to 48 and 51 of this Law and imprisonment of up to one year. The same shall apply when the conviction is effected pursuant to the procedure under the safeguarding measures. All other matters shall be regulated pursuant to Article 947 of the Civil Procedure Code.

(5) The civil sanctions of this article are applied accordingly in the case that the debtor did not pay the remuneration provided for by paragraph (3) of Article 18 hereof to a collecting society.

(6) The civil penalties of this article are also applied in case of infringement of intellectual property of the author of a database and of the sui generis right of the maker of a database. (Article 12 of Directive 96/9)

ARTICLE 65A: ADMINISTRATIVE SANCTIONS

(1) Any person who, without being entitled to and in violation of the provisions of this law, reproduces, sells or otherwise distributes to the public or possesses with the purpose of distributing a computer program shall, irrespective of other sanctions, be subject to an administrative fine of EUR 1,000.00 for each illegal copy of the computer program.

(2) A street vendor or a standing person (outside a shop) caught to distribute to the public by sale or by other means, or to possess with the intention of distributing sound recordings on which a work protected by copyright law has been recorded, is imposed an administrative penalty equal to the product of the items of illegal recordings by (20) euros for each sound recording according to the seizure report drafted during the arrest of the infringer. The minimum of the administrative penalty is defined to one thousand (1000) euros. The same applies to the reproduction and distribution of physical carriers of sound in shops (as added with article 46 Law 3905/2010).

(3) A presidential decree issued after a proposition by the Ministry of Finance and the Ministry of Culture may amend the rates of the amounts and minimum rate mentioned in par. 1 and 2 regarding the administrative penalty.

(4) The competent authorities for the control of enforcement of these stipulations and of the enforcement of the provided sanctions are the Unit of Special Controls (IPEE), the Police, the Port (as added with article 46 Law 3905/2010) and the Customs authorities, which inform the right holders via the Hellenic Copyright Organization after the finding of the violation.

(5) A common decision issued by the Ministry of Finance and the Ministry of Culture defines the procedure of the penalty enforcement and collecting, the competent collecting services and any other detail necessary for the application of the present article.

ARTICLE 66: CRIMINAL SANCTIONS

(1) "Any person who, in contravention of the provisions of this law or of the Provisions of lawfully ratified multilateral international conventions on the protection of copyright, unlawfully makes a fixation of a work or of copies, reproduces them directly or indirectly, temporarily or permanently in any form, in whole or in part, translates, adapts, alters or transforms them, or distributes them to the public by sale or other means, or possesses with the intent of distributing them, rents, performs in public, broadcasts by radio or television or any other means, communicates to the public works or copies by any means, imports copies of a work illegally produced abroad without the consent of the author and, in general, exploits works, reproductions or copies being the object of copyright or acts against the moral right of the author to decide freely

on the publication and the presentation of his work to the public without additions or deletions, shall be liable to imprisonment of not less than one year and to a fine from 2.900-15.000 Euro”.

(2) The sanctions listed above shall be applicable to any person who, in contravention of the provisions of this law, or of the provisions of lawfully ratified multilateral international conventions on the protection of related rights, makes the following actions:

“A) Without the permission of the performers: a) fixes their performance, b) directly or indirectly, temporarily or permanently reproduces by any means and form, in whole or in part, the fixation of their performance c) distributes to the public the fixation of their performance or possesses them with the purpose of distribution, d) rents the fixation of their performance, e) broadcasts by radio and television by any means, the live performance, unless such broadcasting is rebroadcasting of a legitimate broadcasting, f) communicates to the public the live performance made by any means, except radio and television broadcasting, g) makes available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them, the fixation of their performance”.

“B) Without the permission of phonogram producers (producers of sound recordings): a) directly or indirectly, temporarily or permanently reproduces by any means and form, in whole or in part, their phonograms, b) distributes to the public the above recordings, or possesses them with the purpose of distribution, c) rents the said recordings, d) makes available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them, their phonograms, e) imports the said recordings produced abroad without their consent”.

“C) Without the permission of producers of audiovisual works (producers of visual or sound and visual recordings) a) directly or indirectly, temporarily or permanently reproduces by any means and form, in whole or in part, the original and the copies of their films, b) distributes to the public the above recordings, including the copies thereof, or possesses them with the purpose of distribution, c) rents the said recordings, d) makes available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them, the original and the copies of their films e) imports the said recordings produced abroad without their consent f) broadcasts by radio or television by any means including satellite transmission and cable retransmission, as well as the communication to the public

“D) Without the permission of radio and television organizations: a) rebroadcasts their broadcasts by any means, b) presents their broadcasts to the public in places accessible to the public against payment of an entrance fee, c) fixes their broadcasts on sound or sound and visual recordings, regardless of whether the broadcasts are transmitted by wire or by the air, including by cable or satellite d) directly or indirectly, temporarily or permanently reproduces by any means and form, in whole or in part, the fixation of their broadcasts, e) distributes to the public the recordings containing the fixation or their broadcasts, f) rents the recordings containing the fixation of their broadcasts, g) makes available to the public, by wire or wireless means, in such a way that members of the public may access them from a place and at a time individually chosen by them, the fixation of their broadcasts” (article 8 par. 1 of Directive 2001/29).

(3) If the financial gain sought or the damage caused by the perpetration of an act listed in paragraphs (1) and (2), above, is particularly great, the sanction shall be not less than two years imprisonment and a fine of from 2 to 10 million drachmas. If the guilty party has perpetrated any of the aforementioned acts by profession" or at a commercial scale" or if the circumstances in connection with the perpetration of the act indicate that the guilty party poses a serious threat to the protection of copyright or related rights, the sanction shall be imprisonment of up to 10 years and a fine of from 5 to 10 million drachmas, together with the withdrawal of the trading license of the undertaking which has served as the vehicle for the act. The act shall be likewise deemed to have been perpetrated by way of standard practice if the guilty party has on a previous occasion been convicted of a contravention pursuant to the provisions of the Article or for a violation of the preceding copyright legislation and sentenced to a non-redeemable period of imprisonment.“ Any infringement of copyright and related rights in the form of felony is tried by the competent Three member Court of Appeal for Felonies”.

(4) Any person who did not pay the remuneration provided for by Article 18, paragraph (3) hereof to a collecting society is punished with the sanction of paragraph (1), (2) and (3). The same sentence is imposed on the debtor who, after the issuance of the decision of the one member

first instance court, does not submit the declaration under the provisions of article 18, par. 6, of this law. (Last amended by Law 3207/2003, article 10 par. 33).

(5) The sanctions specified in paragraph (1), above, shall be applicable likewise to any person who:

(a) uses or distributes, or possesses with the intent to distribute, any system or means whose sole purpose is to facilitate the unpermitted removal or neutralization of a technical system used to protect a computer program;

(b) manufactures or imports or distributes, or possesses with intent to distribute, equipment and other materials utilizable for the reproduction of a work which do not conform to the specifications determined pursuant to Article 59 of this Law;

(c) manufactures or imports or distributes, or possesses with intent to distribute, objects which can thwart the efficacy of the above-mentioned specifications, or engages in an act which can have that result;

(d) reproduces or uses a work without utilizing the equipment or without applying the systems specified pursuant to Article 60 of this Law;

(e) distributes, or possesses with intent to distribute, a phonogram or film without the special mark or control label specified pursuant to Article 61 of this Law.

(6) Where a sentence of imprisonment is imposed with the option of redeemability, the sum payable for the redemption shall be 10 times the sum specified as per the case in the Penal Code.

(7) Where mitigating circumstances exist, the fine imposed shall not be less than half of the minimum fine imposable as per the case under this Law.

(8) Any person who proceeds to authorized temporary or permanent reproduction of the database, translation, adaptation, arrangement and any other alteration of the database, distribution to the public of the database or of copies thereof, communication, display or performance of the database to the public, is punished by imprisonment of at least one (1) year and a fine of one (1) to five (5) million drachmas.

(9) Any person who proceeds to extraction and/or re-utilization of the whole or of a substantial part of the contents of the database without the authorization of the author thereof, is punished by imprisonment of at least one (1) year and a fine of one (1) to five (5) million drachmas" (article 12 of Directive 96/9).

(10) When the object of the infringement refers to computer software, the culpable character of the action, as described in paragraph 1 of article 65A and under the prerequisites provided there, is raised under the condition that the infringer proceeds in the unreserved payment of the administrative fee and the infringement concerns quantity up to 50 programs.

(11) When the object of infringement concerns recordings of sound in which a work protected by copyright law has been recorded, the unreserved payment of an administrative fee according to the stipulation of par.2 of article 65A and under the prerequisites provided there, the culpable character of the action is raised under the condition that the infringement concerns quantity up to five hundred (500) illegal sound recording carriers.

(12) The payment of the administrative fee and the raising of the culpable character of the action, do not relieve the infringers from the duty of buying off the copyright and related rights or from the duty of compensating and paying the rest expenses to the holders of these rights, according to the provisions of the relevant laws

(13) In case of recidivism during the same financial year the administrative fee provided by article 65A doubles.

ARTICLE 66A: TECHNOLOGICAL MEASURES

(1) The expression "technological measures" means any technology, device or component that, in the normal course of its operation, is designed to prevent or restrict acts, in respect of works or other subject-matter, which are not authorized by the right holder of any copyright or any right related to copyright as well as the sui generis right of the data base maker. Technological measures shall be deemed "effective" where the use of a protected work or other subject-matter is controlled by the right holders through application of an access control or protection process, such as encryption, scrambling or other transformation of the work or other subject-matter or a copy control mechanism, which achieves the protection objective" (article 6 par. 3 of Directive 2001/29).

(2) It is prohibited to circumvent, without the permission of the right holder, any effective technological measure when such act is made in the knowledge or with reasonable grounds to know that he is pursuing that objective (article 6 par. 1 of Directive 2001/29)".

(3) It is prohibited without the permission of the right holder, the manufacture, import, distribution, sale, rental, advertisement for sale or rental, or possession for commercial purposes of devices, products or components or the provision of services which: a) are promoted, advertised or marketed for the purpose of circumvention of, or b) have only a limited commercially significant purpose or use other than to circumvent, or c) are primarily designed, produced, adapted or performed for the purpose of enabling or facilitating the circumvention of, any effective technological measures" (article 6 par. 2 of Directive 2001/29).

(4) The practice of activities in violation of the above provisions is punished by imprisonment of at least one year and a fine of 2.900-15.000 Euro and entails the civil sanctions of article 65 Law 2121/1993. The One-member First Instance Court may order injunction in accordance with the Code of Civil Procedure, the provision of article 64 Law 2121/1993 also being applicable" (article 6 par. 1 and 2 of Directive 2001/29).

(5) Notwithstanding the legal protection provided for in par. 2 of this article, as it concerns the limitations (exceptions) provided for in Section IV of law 2121/1993, as exists, related to reproduction for private use on paper or any similar medium (article 18), reproduction for teaching purposes (article 21), reproduction by libraries and archives (article 22), reproduction for judicial or administrative purposes (article 24), as well as the use for the benefit of people with disability (article 28A), the right holders should have the obligation to give to the beneficiaries the measures to ensure the benefit of the exception to the extent necessary and where that beneficiaries have legal access to the protected work or subject matter concerned. If the right holders do not take voluntary measures including agreements between right holders and third parties benefiting from the exception, the right holders and third parties benefiting from the exception may request the assistance of one or more mediators selected from the list of mediators drawn up by the Copyright Organization. The mediators make recommendations to the parties. If no party objects within one month from the forwarding of the recommendation, all parties are considered to have accepted the recommendation. Otherwise, the dispute is settled by the Court of Appeal of Athens trying at first and last instance. These provisions shall not apply to works or other subject-matter available to the public on agreed contractual terms in such a way that members of the public may access them from a place and at a time individually chosen by them (article 6 par. 4 of Directive 2001/29).

ARTICLE 66B: RIGHTS - MANAGEMENT INFORMATION

ARTICLE 66C: PUBLICATION OF DECISIONS

ARTICLE 66D: CODES OF ETHICS AND INFORMATION EXCHANGE

SECTION XIII: FINAL AND TRANSITIONAL PROVISIONS

ARTICLE 67: APPLICABLE LEGISLATION

ARTICLE 68: LAW NOT RETROACTIVE

ARTICLE 68A: DIACHRONIC LAW

ARTICLE 69: ESTABLISHMENT OF THE COPYRIGHT ORGANISATION

ARTICLE 70: COLLECTING SOCIETIES ALREADY FUNCTIONING

ARTICLE 71: IMPLEMENTATION OF DIRECTIVES OF THE EUROPEAN COMMUNITY

ARTICLE 72: REPEAL OF PROVISIONS AND REGULATION OF OTHER MATTERS

SECTION XIII: CULTURAL MATTERS AND OTHER ARRANGEMENTS

ART. 73.1

ART. 74.

ART. 75 AND 76 ARE NOT REPRODUCED HERE BECAUSE THEY DO NOT CONCERN COPYRIGHT OR NEIGHBOURING RIGHTS

SECTION XIV: ENTRY INTO FORCE

ART. 77