

EXAGGERATED FEATURES

THE CARICATURIST'S QUARTERLY
SPRING 2011



International Protection of Your Copyright

by Meaghan Hemmings Kent

With globalization and the expansion of infringement online, many artists and other copyright owners have become more concerned with protection of their copyright outside of the United States.

As discussed briefly at the 2010 ISCA Annual Convention in Las Vegas, there is no “international copyright” that automatically protects your work throughout the world. Every country protects copyright slightly differently, for different lengths of time, and with different methods of enforcement. For example, the rules regarding ownership, assignment and licensing can vary greatly from country to country.

However, there are certain international treaties that have helped standardize copyright law and to create certain minimum rights to copyright owners. These include, among others, the Berne Convention for the Protection of Literary and Artistic Works, the Universal Copyright Convention, the World Intellectual Property Organization (WIPO) Copyright Treaty, the WIPO Performances and Phonograms Treaty, and the World Trade Organization (formally General Agreement on Tariffs and Trade – GATT).

The Copyright Office provides an extensive and excellent outline of the countries that are members of various treaties: <http://www.copyright.gov/circs/circ38a.pdf>. The World Intellectual Property Organization also provides a list of members to certain treaties: <http://www.wipo.int/treaties/en/ip/berne/>. Similarly, Wikipedia provides an easy to read table: http://en.wikipedia.org/wiki/List_of_parties_to_international_copyright_agreements.

The Berne Convention is particularly well-known and often cited. The Berne Convention requires that any country that is a signatory to the treaty treat a copyright from another country the same way that it treats a copyright from its own country. In other words, all member countries must grant copyright protection to authors who are nationals of any other member country.

For example, both France and the United States are signatories to the Berne Convention, which means that a French national who owns a copyright in France can enforce his copyright in the United States with the same rights that a United States national could enforce his rights in the United States. Similarly, a United

States national who owns a copyright in the United States can enforce his copyright in France to the same extent as a French national could enforce his copyright in France.

The Berne Convention also established certain minimum rights to copyright owners. For example, all signatories must offer copyright protection that lasts for at least the life of the author plus 50 years (except for photographic and cinematic works). For photographic works, the Berne Convention provides for a 25 year protection from creation and for cinematic works a minimum of 50 years after its first showing, or creation if it has not been shown.

QUICK FACTS

Every country protects copyright slightly differently, for different lengths of time, and with different methods of enforcement.

Countries that are signatories to the Berne Convention, at a minimum, must grant all other signatory countries automatic copyright protection.

The Berne Convention has 164 contracting member countries.

Note that this is a minimum and that countries may grant additional or longer rights; for example, in the United States, copyright for an individual author lasts for the life of the author plus 70 years. Wikipedia has an extensive list of different copyright lengths available at http://en.wikipedia.org/wiki/List_of_countries%27_copyright_length. As with everything else on Wikipedia, be sure to verify the source before you rely upon it.

Another minimum established by the Berne Convention is that all signatory countries grant copyright protection automatically; that is, there is no requirement for copyright registration.

In accordance with this minimum, recall that in the United States, copyright



Caricature by Court Jones

automatically exists as soon as the work is fixed in a tangible means of expression and there is no requirement of copyright registration. However, as has been discussed in previous articles, in the United States, there are extensive benefits to copyright registration, even if it is not required, such as the availability of statutory damages and attorneys’ fees in an infringement action.

In light of these treaties, you should not despair if you are faced with copyright infringement outside the United States. Though the rights may be different in each country, most industrialized countries are members of one or more of these treaties and recognize the copyright of foreign nationals. For instance, the Berne Convention has 164 contracting member countries. The websites cited above give you lists of the countries that are members so you can track down whether a particular country where infringement may be occurring will afford you any copyright protection.

Unfortunately, just as tracking and enforcement of your rights can be difficult and costly in the United States, it can be even more so internationally. Nonetheless, there are numerous resources online to lead you in the right direction (see links above) and an attorney experienced in anti-counterfeiting and international enforcement can assist in simplifying your enforcement measures.

Meaghan Hemmings Kent is an intellectual property attorney in the Washington, D.C. office of Venable LLP. She advises clients on all areas of intellectual property law, including copyright, trademark, patent, trade secret, right of publicity, domain name law, and anti-counterfeiting. She can be reached at 202-344-4481 and mhkent@venable.com. The views expressed in this article are those of the author, do not constitute legal advice, and should not be attributed to Venable LLP or its clients. **EF**