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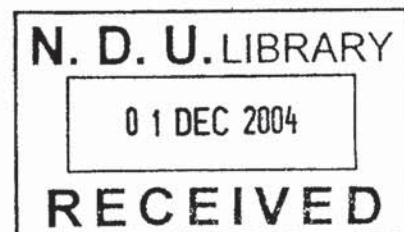
Faculty of Political Science, Public Administration  
Affairs and Diplomacy

**THE LEBANESE COPYRIGHT LAW, ITS  
IMPLEMENTATION AND ITS CONFORMITY WITH  
INTERNATIONAL CONVENTIONS**

M.A.Thesis in International Law

By

Zeina M. Hanna



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Approved by: Advisor: Dr. Georges Labaky

First reader: Dr. Akl Kairouz

Second reader: Dr. Simon Haddad

*Dr. Georges Labaky*  
*Akl Kairouz*  
*Simon Haddad*

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# ABSTRACT

Political instability in Lebanon, caused by the tragic war that lasted over 25 years, inhibited and delayed all economic development.

A new area of political stability conducive to development emerged soon after 1990. During this era, Lebanon commenced a completely new national economic recovery, a process that witnessed new construction in various infrastructural sectors, to including the courts, telecommunication, electric installations, airports, roads, etc.<sup>1</sup>

As part of the Lebanese economic policy, the Lebanese government invites investors and tries to create for them an appropriate and friendly environment.

To that end, the Lebanese government decided to participate in the international economic trends through its application for membership in the World Trade Organization (*WTO*) on February 1999. On May 1999 the Council of the WTO approved the Lebanese application, and since then Lebanon has been an observer member in the WTO.

In order to pass from observer status to full membership in the WTO, the Lebanese government has to fulfill several conditions, which include harmonization of the political, legal and legislative framework with the Trade Related Intellectual Property Aspects Agreement (*TRIPS*).

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<sup>1</sup> The impact of TRIPSS Agreement on the Lebanese Intellectual Property Rights including copyright (a case study) Dr. Kamal Hammad, professor of the Lebanese University Faculty of Law Turin 2000.

In partial compliance, Lebanon has enacted two new laws, the first one being the Copyright Law number 75 issued on March 13, 1999 and the second being the Patent Protection Decree number 2856 issued on March 26, 2000.

However, given the infancy of the Copyright Law, it still remains to see how effective the Lebanese government and judicial authorities will be in enforcing the provisions of this Law.

In fact, at the present time, Lebanon continues to face problems in providing adequate and effective protection of intellectual property rights. Problems persist with the widespread availability of pirated optical discs and rampant internet and T.V cable piracy.

On the international level, despite stronger laws and enforcement, software counterfeiting is increasing at an alarming rate around the globe. During the last 5 years, international studies have revealed that Lebanon has become a producer of pirated materials<sup>2</sup> and an exporter of piracy.<sup>3</sup> The path to the battle against piracy is a long one but success will solve many economic problems for Lebanon. Every contribution towards the goal of anti-piracy should be commended. Some beginning has been made and although it appears small today, it might be the beginning of the solution.

Indeed the Lebanese government's recent steps constitute its most serious efforts, yet, to strength the IPR protection. Although government has the main responsibility

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<sup>2</sup> Broadly, the term of piracy is generally used to describe the deliberate infringement of copyright on a commercial scale.

<sup>3</sup>The methodology used by IIPA member associations to calculate these estimated piracy levels and losses is described in IIPA's 2004 Special 301 submission at <http://www.iipa.com/pdf/2004spec301methodology.pdf>.

in ensuring that the Law is enforced, it requires help. Greater awareness should be spread at the grassroots level, where people may accept the need for Intellectual Property to be respected and paid for.

After all, the Lebanese government recognizes that appropriate enforcement of Intellectual Property Rights is going to be important for the Lebanese economic development. Accordingly, once this appropriate task is properly achieved and duly internationally recognized, WTO membership will allow Lebanon to fully integrate into the world economy and the multilateral trading system, to find and play effectively its role in the global economic system, and to greatly increase and fully exploit its economic, trade and investment potential.

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## Introduction

The concept of Intellectual Property emerged where people began to believe that knowledge came from the human mind, and so begin to consider human beings as creators, hence owners of new ideas rather than mere transmitters of eternal verities.

Under its modern concept, Intellectual Property is a dense concept, woven together from at least three complex stands of jurisprudence, copyright, patent, and trademark, each with its own sources in premodern custom and law, and each with its own trajectory into our own era. <sup>4</sup>Copyright, complementary concepts of authors' rights, and literary property, all of which come under the focus of this study, are basically the core of the concept of Intellectual Property. Copyright to this end, as a property right, became important and therefore began to require protection, especially after the invention of printing which made mass production of copies for commercial purposes possible.

In fact, Intellectual Property including copyright, has become a key element in economic and Intellectual Property's cultural policy in a "world" where the source of wealth is increasingly intangible and more intellectual, as opposed to tangible and physical capital; such reference to the "world" covers markets distributed across the globe in line with the overwhelming globalization trend.

Furthermore, the definition of the proper scope and limit of intellectual property rights and their relation to other areas of public policy is the subject of case law and

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<sup>4</sup> *The rise of Intellectual Property 700 B.C, A.D. 2000:an idea in the balance* by Carla Hesse.

legislation that have been elaborated and developed over many decades throughout the world. Since the 1970s the United States and the Western European nations have been increasingly aggressive in using coercive sanctions and international trade treaties to coerce developing nations precisely to recognize Intellectual Property rights and abide by the applicable systems set forth to this end.

Indeed, international treaties are intended to provide harmonization between national laws and to establish ranges of acceptable legal standards for business activities; Copyright is one of the best examples illustrating this phenomenon typical of the last century.

Notwithstanding the fact that no international copyright law exists and applicable for protection of work in any country of the world, several key treaties that include the US aim at protecting works from and within member nations.

Therefore, to determine the protection that a certain work enjoys within a country that has not signed a treaty, the copyright laws of that nation should be considered as the applicable regime.

Nowadays, copyright and related rights are challenged by the rapid development of the digital technologies as well as by rampant piracy in parallel. Up to the present, the United Nations Educational, Scientific and Cultural Organization (*UNESCO*) has contributed to the promotion of copyright protection and to the prevention of piracy through public awareness campaigns, information, training and research, and assistance in legal and technical matters. In fact, software piracy has become an unresolved worldwide problem costing millions of dollars in lost revenues.

In 1998, the International Intellectual Property Alliance (*IIPA*), an alliance representing more than 1,400 American companies, commended Lebanon for passing a comprehensive Intellectual Property rights law. IIPA encouraged the government to enforce the existing law<sup>5</sup> and to amend some of its clauses. IIPA claimed that the amendments were necessary to bring the law in line with provisions of existing international treaties, thus making it compatible with the standards of the World Trade Organization (*WTO*).<sup>6</sup>

In this regard, Lebanon has recently taken major steps for the improvement of the legislation applicable in this field. A 1999 Copyright Law, a 2000 Patent Law and a 2000 Trademark Law attest to such improvement, with such laws standing as a matter of substantial economical achievements on a national scale. It is an important step towards modernization and harmonization with international standards as well. Although, Lebanon has carried out major amendments to its intellectual property laws, the enforcement of such laws still face many problems in practice. The violation of intellectual property rights remains a serious problem, especially within the areas of unauthorized copying of imported books, videotapes, cassettes and computer software. The Lebanese government does not apply stringent control and supervision measures to prevent such breaches at the outset; it is only when such breaches occur and property rights are widely and publicly consumed that protection is sought before courts.

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<sup>5</sup> Law no. 75 of 13 March 1999 for the Intellectual Property in Lebanon

<sup>6</sup> [http://www.agip.com/agipnews/bulletin/10\\_99.htm](http://www.agip.com/agipnews/bulletin/10_99.htm)

Accordingly, the present study deals in the first place with the Lebanese Copyright Law as amended (**Ch I**), and extends thereafter to the elaboration of its conformity with international agreements and prescriptions and standards of the international organizations' (**Ch II**). It then deals with the effectiveness of its enforcement (**Ch III**) particularly with respect to the remedies availed for any breach of its provisions mainly in piracy cases (**Ch IV**).

# Chapter 1: the Lebanese 1999 Copyright Law

## Section 1: Historical view

To understand the importance of the recent signs indicating an increasing domestic and international concern over copyright, it is fitting to provide a brief discussion of the historical, cultural, political and economic context of copyright in Lebanon.

### 1. International framework for the protection of copyright and related rights

Evolution: 1924-1999

Under Lebanese Law, international treaties are not-self executing, i.e. they form part of Lebanese Law only to the extent they are reflected in Lebanese legislation. Moreover the Agreement on Trade-Related aspects of Intellectual Property Rights (*TRIPS*) leaves some room for developing countries to develop domestic laws which correspond to specific national concerns and thus to use Intellectual Property to further development goals.<sup>7</sup>

Historically, the Copyright Law has been present in at least some form or another since the Ottoman Period. Then two kinds of laws existed, one refers back to 1872 and the second to 1888.

These laws were abrogated by a decision of the French High Commissioner Weygand and replaced on January 17, 1924 by the decree No. 2358 which regulated

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<sup>7</sup> The impact of TRIPSS Agreement on the Lebanese Intellectual Property Rights including Copyright (a case study) Dr. Kamal Hammad professor of the Lebanese University Faculty of Law Turin 2000.

Intellectual Property in Lebanon. Minor modifications have been added since that time (1926, 1937, 1946, and 1969). Moreover articles 722 to 729 for the protection of Intellectual Property Rights were reserved to the Criminal Law

The 1924 Law, known as the Law for the Protection of Commercial, Industrial, Artistic, Literary and Musical Rights, in its title VII (articles 137-183) associated to artistic, literary and musical works, gave the absolute property right to the author, together with both material and moral rights. It also made no distinction between national and foreign authors and works. Although it did not cover new technologies such as computer software, because they did not exist then, there has never been a case before the courts in which the judges ruled that software was not currently protected.

Nevertheless, this Law was no longer deemed applicable. It was totally outmoded, questionable in its coverage, and it lacked adequate penalties.

In fact, the freedom and expansion of the press, the growth of adult training and mass education schemes, the raising of standards in higher education, the increase of the number of universities and other institutions of higher learning, the development of science and technology, the changed map of the world with the birth of a number of newly independent developing nations, all these factors have caused conceptual changes.

In fact, in the late nineteenth century considerable socio-economic and political changes on the one hand and rapid strides in technological development in the other have brought about substantial changes of outlook in relation to copyright.

Accordingly, the Lebanese parliament had to wait until the World Trade Organization (*WTO*) accession negotiations had begun in order to modify its intellectual property laws.

In fact, in March of 1999 , the Lebanese Parliament approved the new proposed copyright law, which repeals and replaces those provisions of the 1924 law that relate to copyright issues.

The Law No. 75 was published in the Official Gazette No. 18 dated April 3, 1999 under title *Literary and Artistic Property*, and came into affect two months after the publication date.

This new law appears to comply with the requirements of the WTO agreements on TRIPs and other conventions that Lebanon may enter into in the future.

## **2. Reasons for copyright protection**

As long as the Lebanese Copyright Law is relatively up to date, a question should be considered: what is the motive for such a protection? Why do we, as a society, need copyright?

Copyright protection is above all one of the means of promoting, enriching and disseminating the national cultural heritage.

In fact, a country's development depends to a very great extent on the creativity of its people, and encouragement of individual creativity and its dissemination is a way for progress. That is why encouragement of intellectual creation is one of the basic prerequisites of all social, economic and cultural development.

One of the strengths of Lebanon is that the country has a dynamic services sector and is renowned for its rich culture. Its music and other cultural industries have great potential to thrive, with tremendous economic benefits.

Indeed, copyright constitutes an essential element in the development process; it can be understood as a compromise between the economic interests of those producing the works, and the public good. By removing the fear of unauthorized copying and distribution of one's works, copyright serves as an incentive to creativity.

Intellectual experience has shown that the enrichment of the national cultural heritage depends directly on the level of protection afforded to literary and artistic works. In fact, the more a country's intellectual creations are protected, the greater its renown; the more production in literature and the arts there is, the more numerous are their accompaniments in books, records and entertainment industries.

However, this potential will only be realized if the copyright system works in practice and ensures that Lebanese artists and producers are rewarded for their efforts. Most importantly, the laws need to be enforced so that there are serious deterrents for the criminals involved.



## **Section 2: Scope and the conditions of protection under Lebanese law**

The subject-matter of copyright protection includes every protection in the literary, scientific and artistic domain, whatever the form or mode of expression.

For a work to enjoy copyright protection, however, it must be an original<sup>8</sup> creation.

Two painters, for example, may paint the same still life. Each painting is original, since it reflects the creativity of the maker.<sup>9</sup>

Accordingly, even though neither of these paintings is novel, and even if both lack any artistic merit whatsoever, both painters are entitled to a copyright for their works.

The ideas in the work do not need to be new but the form, be it literary or artistic, in which they are expressed must be an original creation of the author.

And, finally, protection is independent of the quality or the value attached to the work- it will be protected whether it be considered, according to taste, a good or a bad literary or musical work- and it is independent even of the purpose for which it is intended, because the use to which a work may be put has nothing to do with the protection.

A story written down in paper with pen and ink is the classic example of an original work that has been fixed in a tangible medium. So, too, is a picture painted with oils on canvas, a statue carved in marble, and music recorded on a record, tape, or compact disc.

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<sup>8</sup> Originality: creative effort invested by an author into raw materials that gives them a new quality or character.

<sup>9</sup> See *Intellectual Property* chapter 9, RAY August.

Every aspect of this protection will be discussed in detail.

### **1. Protected works**

By definition the object of copyright protection is a work that is in an intellectual creation in the fields of art, literature, music or science.

Article 2 of the Lebanese Copyright Law lists ten categories of works that are eligible for copyright protection:

- Printed works (e.g., books, articles)
- Audio-visual works (e.g., motion pictures, sound recordings)
- Musical compositions (whether serious or light; songs, choruses, operas, musicals; whether for instruction, and whether for one instrument (solos), a few instruments (sonatas, etc.) or many (bands, orchestras)
- Theatrical works
- Choreography
- Drawings, paintings
- Computer programs (either as literary work or independently)
- Maps, plans, architecture drawings
- Lectures and other oral works
- Plastic art works

## 2. Ownership and rights

When people create copyright works, often the first question is "Who owns it?" This is an important question because ownership of the copyright in a work grants the owner several exclusive rights.

Under the new law, ownership of a work vests its knowledge in its creator immediately upon creation, without having to follow any formalities. (Article5).

The holder of the copyright enjoys both exclusive financial rights to exploit his work and certain moral rights, including the right to be recognized for his work, the right to remain anonymous, and the right to prohibit harmful modifications to his work (Articles 14, 15 & 16). Many of the financial rights provided by the Law copy those minimum standards of protection required by the Berne Convention,<sup>10</sup> such as the right to translate the work, the right to make or authorize reproduction of the work, the right to perform the work, the right to authorize the broadcasting/communication of the work and the right to sell the work.

The author may dispose of or assign his financial rights to existing works, but he may not dispose of his future works or his moral rights, the latter having an indefinite term and being transferable only through a legacy or inheritance (Articles 16, 18, 22 and 53). Any contracts fully or partially disposing of an author's financial right to exploit his work must be in writing and must be specific with regards to the subject,

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<sup>10</sup> The Berne Convention for the Protection of Literary and Artistic Works was established in 1886 in Berne, Switzerland.

place and time, compensation and term. Contracts omitting the term will be legally deemed to have been concluded for a period of 10 years under the law (Article 17).

Article 12 lists parties eligible for copyright rights:

- Lebanese authors residing anywhere.
- Non-Lebanese, nationals or residents of the Berne Convention member states
- Nationals of the Arab League who are non-Berne states members provided their nation provides reciprocal treatment for Lebanese.
- Producers of audio-visual works, with headquartered in Lebanon or in a Berne Convention adherent state.

### **3. Related rights**

Related rights are defined as those held by artists or performers (e.g., actors, musicians, singers, orchestra members, dancers and circus performers), producers of audio recordings, publishing houses and radio and television broadcasting institutes, stations, companies and authorities (Articles 1 and 35).

These rights are often called neighboring rights because they are neighbors to, but not part of, an author's copyright.<sup>11</sup>

Indeed, works of the mind are created in order to be disseminated among as many people as possible. This cannot be done generally by the author himself, for it requires intermediaries whose professional capabilities give to the works those forms

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<sup>11</sup> *Intellectual Property* Ray August chap.9 p 477.

of presentation that are appropriate to make them accessible to a wide public.<sup>12</sup> For example, this applies where some of such works are communicated to the public, by performed or recited with the aid of performers. In such cases, there arises the interest of the performers themselves in relation to the use of their individual interpretation in the performed work.

The Law sets out the specific rights enjoyed by each of these categories of copyright holders under the law and the criteria for enjoying these rights. As with rights granted to the primary original works, any agreements affecting related rights must be in writing (Article 46) and the exception for personal or private use applies to these rights as well (Article 48).

#### **4. Works exempt from protection**

Article 4 of the Lebanese copyright Law provides as follows:

*“The following shall be excluded from the protection provided by this Law:*

- *Daily news;*
- *Laws, legislative decrees, decrees and decisions issued by all public authorities and official translations thereof;*
- *Judicial decisions of all kinds and official translations thereof;*
- *Speeches delivered in public assemblies and meetings. The authors of speeches and presentations shall enjoy the sole right of collecting and publishing such lectures and presentations;*
- *Ideas, data and abstract scientific facts;*

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<sup>12</sup> *Intellectual Property reading material* chap 2: fields of Intellectual Property protection, p.42.

- *Artistic folkloric works of all kinds. However, works inspired by folklore shall enjoy protection”*

Therefore, works specifically excluded from the protection *under the Lebanese law* are: daily news bulletins; laws, decrees, resolutions and their translations; judicial rulings; public speeches; thoughts, data and pure scientific facts; and all works of arts of folkloric heritage.

*In some countries*, works are excluded from protection if they are not fixed in some material form. Moreover, the texts of laws and of decisions of courts and administrative bodies are excluded from copyright protection. It is to be noted that in some other countries such official texts are not excluded from copyright protection; the government is the owner of the copyright in such works, and exercises those rights in accordance with the public interest.

In fact, copyright law protects only the form of expression of ideas, not the ideas themselves. For example, a musician lives in the United States. When he writes new lyrics, he prints them out on paper, signs his name at the bottom with the copyright © symbol to show that he is the author, places it in an envelope and mails it to himself without opening it. His copyright begins at the moment he puts his idea in a tangible form by printing the lyrics out on paper. He creates proof when he mails it to himself.<sup>13</sup>

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<sup>13</sup> What is copyright protection? <http://www.whatiscopyright.org/copyright.html>.

In addition, whenever, the work is recognized as an original one and gains protection thereby, any one who breaches the rights that the Lebanese Copyright Law confers on the author of that work will be exposed to civil, administrative and criminal penalties.

## **5. Damages and penalties for infringement and violation of the law**

### **Civil and administrative remedies:**

The Copyright Law is hard to enforce, and so are the penalties. If you are found in violation of the copyright laws, you probably will only have to pay a fine. However, the fines can be quite substantial and depend on where the defendant stands in the distribution chain and on how many copies had been made before the distribution of the defendant. The fine varies, with whoever copied the original will be paying the most. In extreme cases, where a contract is enacted upon the purchase of the original copy as with Word Perfect,( a computer word processor),upon buying an original set off disks you must sign a contract promising not to distribute the program. In such cases, one could face imprisonment for violation because now not only is one guilty of breach of the copyright law, but of breach of contract as well. So the moral of the story is to enjoy one's large collection of audio/video tapes and to get those good marks on essays one didn't even write. One should enjoy those really exciting computer games, because under Canada's current copyright law for example and the amount of attention the police pay to this problem, it is unlikely that one will ever get caught.

Lebanon's new Copyright Law attempts to meet Trade Related Intellectual Property Aspects (TRIPS) requirements by providing for precautionary measures, civil damages/remedies and criminal penalties. First, the law addresses the issue of precautionary measures. Where it is anticipated that an infringement of copyright or related rights might occur, the law allows the Judge of Urgent Matters, the President of the Court of First Instance (i.e., trial court) and/or the Public Prosecutor, at the request of the concerned party, to take all necessary precautionary measures to prevent the occurrence of a violation (Article 81). The Judge of Urgent Matters also has wide powers in the event of such violation to take such measures as seizure of the violating materials, taking stock of the violating materials while maintaining them in the defendant's custody and injunctions (Articles 82-83). The law also addresses the issue of civil damages and provides that any person who violates an author's rights or related rights must pay equitable compensation as determined by the Court based on the commercial value of the work, the damage caused, profits lost by the author and gains acquired by the violator (Article 84).

**Criminal remedies:**

The criminal penalties for violations of the law provide for a fine ranging from LL5,000,000 – LL50,000,000, approximately \$3,300 - \$33,000 and/or possible imprisonment ranging from 1 month to 3 years, depending on the violation. More specifically, the law imposes the following penalties:

Any person who forges or changes a name on a work or deliberately copies a work or deliberately sells a copied or forged work is subject to 1 month – 3 years



imprisonment and/or a fine up to LL 5 million (approximately \$3,300) (Article 85).

Any person who deliberately violates an author's rights or related rights is subject to 1 month – 3 years imprisonment and/or a fine ranging from LL5,000,000 – LL50,000,000 (approximately \$3,300 - \$33,000), as well as the temporary closing of offices and destruction of the infringing materials (Article 86).

Any person who imports or sells or rents equipment to be used in obtaining illegal transmission of radio or television programs is subject to 1 month – 3 years imprisonment and/or fines ranging from LL5, 000,000 – LL50,000,000.

Where any of the above violations have occurred, an action may be initiated by the Public Prosecutor *sua sponte*<sup>14</sup> or upon the request of the harmed party or the head of the Copyright Protection Department (Article 89). Moreover, all of the above penalties may be doubled for repeat offenders. Finally, the law prohibits the importing of any pirated recordings and works that enjoy legal protection in Lebanon. This is most likely in response to the huge pressure Lebanon has come under from software and other technology companies seeking to invest in Lebanon but fearful of the unusually high rate of unregulated piracy in the region in general. Various sources suggest that up to 90% of software in Lebanon is pirated. Moreover, according to the International Federation of the Phonographic Industry, the piracy rate for sound recording in Lebanon is estimated at 50% and can be as high as 70% for international productions. Pursuant to the new

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<sup>14</sup> Latin for "of one's own accord; voluntarily." Used when the court addresses an issue without the litigants having presented the issue for consideration. Most frequently used when the court determines that jurisdiction is not proper even though both parties have agreed to appear in the court.  
Legal information institute

law, any such works will be seized wherever they are found (Article 91). To this end, the law allows policemen, customs officers, and Copyright Protection Department officers to identify suspected infringing works, take stock of them and take samples and seize items when necessary (Article 92). In doing so, they must complete a report that includes specific information defined in the law.

## **6. Limitations on copyright protection**

### **a. Temporal**

Copyrights and related rights are temporary and therefore only enforceable for a limited time period.

Economic rights of copyright enter into effect upon the creation of the work, without the need for any formal measures (copyright Law article 5), and subsist for the life of the author, plus fifty years. (copyright Law articles 49-52). Moral rights of copyright exist in perpetuity (copyright Law article 53)

Related rights of performing artists are effective for fifty years from the end of the year of the performance (Copyright Law article 54). Rights of producers of phonograms are effective for fifty years from the end of the year when the recording was made for the first time. (Copyright Law article 55). Rights of broadcasting organizations are effective for fifty years from the end of the year when the programs were broadcast. (copyright Law article 56). Rights of publishers exist for fifty years from the end of the year when the publishing took place. (Copyright Law article 57). The moral rights of the performing artist are perpetual (Copyright Law article 53).

The foregoing protection periods apply to works created before the date of the Copyright Law which had not previously entered the public domain. (Copyright Law article 98).

#### **b. Geographic**

The second limitation or exception to be examined is a geographical limitation. The owner of the copyright in a work is protected by the law of a country against acts restricted by copyright laws which are passed in that country. If both countries are members of one of the international conventions on copyright, the practical problems arising from this geographical limitation are very much eased.

#### **c. Permitted use**

Certain acts normally restricted by copyright laws may, in certain circumstances specified in the law, be done without the authorization of the copyright owner. Some examples of such exceptions are described as "fair use".<sup>15</sup>

In fact four factors are used as guidelines for fair use:

- The purpose and the nature of the use: it must be spontaneous and for temporary use (e.g. teaching at a non profit institution)
- The nature of the copyright work: it must be an original one.
- The nature and substantiality of the material used, if extracts are not substantial in length when compared to the whole of which they are part, their utilization may be considered fair use.

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<sup>15</sup> Please review article 25 of the Lebanese copyright Law.

- The effect of use on the potential market for, or value of, the work: if it does not affect the market, it is not considered an infringement.

## **Chapter 2: Conformity of the Lebanese Copyright Law with International Agreements and Organizations**

### **Section 1: International Conventions**

There are no international copyright laws that enable an author to protect his work throughout the world. However, in addition to the laws of individual countries, International Conventions are of primary importance when conducting global commerce and education. In fact, most countries are members of the Berne Convention and the Universal Copyright Convention (UCC) (1971 Paris text; and 1952 Geneva text), which allow a person to protect his works in countries of which he is not a citizen or national.

#### **1. Convention of Berne**

The Berne Convention for the Protection of Literary and Artistic Works was established in 1886 in Berne, Switzerland. The text has been revised, and the current edition (and the one to which the United States and most other nations are signatories) is the 1971 Paris text. The treaty is administered by the World Intellectual Property Organization (*WIPO*), an international organization headquartered in Geneva, Switzerland.

The Berne Convention, as amended in Berlin in 1908, established that the title granted by copyright laws is subject to no formalities. When the US became a

member of the Berne Convention in March 1989, this became applicable throughout the world.

The Berne Convention has four main points: national treatment, preclusion of formalities, minimum terms of protection, and minimum exclusive rights.

**National treatment:** Under the Berne convention, an author's rights are respected in another country as though the author were a national (citizen) of that country (Art. 5(1)). For example, works by U.S. authors are protected by French copyright laws in France, and vice versa, because both the U.S. and France are signatories to the Berne Convention.

**Preclusion of formalities:** Under Berne, copyright cannot be dependent on formalities such as registration or copyright notice (Art. 5(2)). However, this provision apparently does not prevent a member nation from taking adherence to formalities into account when determining which remedies apply.

**Minimum terms of protection:** Under Berne, the minimum duration for copyright protection is the life of the author plus 50 years (Art. 7(1)). Signatory nations may provide longer durations if they so choose.

**Minimum exclusive rights:** Under Berne, a nation must provide for protection of six rights: translation (Art. 8(1)), reproduction (Art. 9(1)), public performance (Art. 11(1), and Art. 11ter), adaptation (Art. 12), paternity (Art. 6bis (1)) and integrity (Art. 6bis (1)). In certain of these areas, U.S. copyright law does not quite conform to Berne. For example, Berne requires that the paternity and integrity rights endure for the same term as the other rights (Art. 6bis (2)), while in the U.S. those rights terminate at the death of the author (17 U.S.C. 106A (e)). The two have been

reconciled by the premise that other sources of federal law, such as trademark, combined with the trademark, unfair competition, and defamation laws of the individual states, satisfy these requirements.

In addition, the Berne Convention provides basic protections for authors, lyricists and composers internationally. The music industry also relies on treaties that specifically protect sound recordings, including the Rome Convention, the Geneva Phonograms Convention, and the WTO TRIPS agreement.

The second important multilateral international convention in the area of copyright is the Universal Copyright Convention.

## **2. The Universal Copyright Convention (UCC)**

The Universal Copyright Convention was originally drawn up in 1952 in Geneva. It became effective in 1955. Like that of the Berne Convention, the text has been revised. As with the Berne Convention, the most recent revision was in Paris in 1971. The United States is party to both the 1952 Geneva text and the 1971 Paris text. The U.C.C. is administered by UNESCO, a United Nations agency.

Like Berne, the UCC requires national treatment for authors. However, the UCC differs from Berne in four material ways. First, the UCC permits (but does not require) member states to require formalities such as copyright notice and registration as a condition of copyright (Art. III). Second, copyright duration must be valid for at least 25 years after the author's death or after the first publication, depending on whether a nation calculates duration from the author's lifetime or from

publication (Art. IV). Third, the UCC's provisions on minimum rights are considerably less demanding than Berne's; the UCC demands recognition only of the rights to reproduce, adapt, and to publicly perform or broadcast the work. Furthermore, the UCC expressly permits a nation to make exceptions to these rights, as long as the exceptions do not conflict with the spirit of the treaty (Art. IVbis). Fourth and finally, the UCC recognizes the Berne Convention, and includes language so that, between two nations which are signatories to both Berne and the UCC, the Berne Convention is operative and the UCC does not apply. Furthermore, if a nation is a signatory to both conventions, and withdraws from Berne, it will not be protected by the UCC (Art. XVII and Appendix). These provisions were added by nations fearing that creation of the UCC in 1955 would undermine the already existing Berne Convention.

The United States was the primary mover behind the creation of the UCC, because the formalities that existed in U.S. copyright law at that time did not permit adherence to Berne. With the U.S. joining Berne, and consequently abandoning the formalities that were the driving force behind the UCC, the significance of the UCC is waning.

**Lebanon** has adhered to the 1928 text of the Berne convention and to the Universal Copyright Convention (UCC). It is also a member of both the Berne Convention<sup>16</sup> for the protection of literary and artistic works (Rome 1928 act) and the Berne Convention 1928, as well as the International (Rome) Convention for the protection of performers, producers of phonograms and broadcasting organizations (1961)

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<sup>16</sup> Date on which Lebanon become party to the Berne Convention: September 30, 1947 in Rome.



("Rome convention"). However, Lebanon should be urged to accede to the Paris act of 1971 of the Berne convention as well as the Geneva Convention, in order to provide clearer protection to international sound recordings.

The current Berne Convention as updated by the Paris Act, July 24, 1971, as a general rule provides for a copyright protection of 50 years following the death of the work's creator. Some countries that are party to the Convention actually have protection that extends beyond that time frame. One of these countries is the United States.<sup>17</sup> This extended time frame applies for works that are first published in that country. Also works such as photographs are not protected in the same manner as other works. For example,<sup>18</sup> in Lebanon, among other countries, photographic works or works obtained by a method similar to photography are protected for only 50 years from the date of their publication.<sup>19</sup> Some countries also vary with respect to the length of time that royalties must be paid for the use of the material. Furthermore, other countries that are not party to the conventions related to the copyright protection issues may protect works for less time, and therefore making the items available in those regions may come into question. Thus, the length of time that a creation is protected by copyright varies by the form that the property takes and the place in which copyright is considered.

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<sup>17</sup> Sonny Bono *term extension*, title 17, chapter 3 of the US code, <http://www.copyright.gov/title 17/>.

<sup>18</sup> Western Asia preparatory conference for the world summit on the information society (WSIS) Beirut, 4-6 February 2003.

<sup>19</sup> Copyright Law of Lebanon article 153.

In general, only the author and creator of the work is entitled to use, reproduce and distribute the material unless someone else who wishes to use it obtains the author's prior written permission to use it as well, and only in the manner that the author previously approve.

This means that nobody may access the web site, for example, and copy the layout, text or graphics until the author provide a written statement, "Yes, you can use my work, but only in the manner that I deem appropriate." This applies particularly for those who want to use the material for financial gain.

The principle of the prior permission was consecrated in the Lebanese Law; however, the law excludes certain acts, such as the copying of computer programs (unless by permission and for the purpose of backup in case of loss or damage) and limited edition works, from the realm of this exception (Article 24). The law also sets out certain other situations in which copying of a work may be made without the consent of the authors, such as for educational purposes, for archive purposes, for use in judicial and administration proceedings, for use by the information media and for display in museums and exhibits (Articles 25-34). The above exceptions initially arose out of the government's need to ensure that students and universities were able to copy original works for their own personal and educational use. Of course, these exceptions cannot be abused and are not without certain limitations

Indeed the most controversial part of the Law deals with the protection of computer software. Opponents of the law said that the bill would help secure the US monopoly of the software market and would deny the country's youth a proper education as schools would no longer be able to afford to buy computer software. Despite the fact

that several international software companies (such as Microsoft) offered price reductions for students, colleges, and universities, the opposite party remained faithful to their point of view. The bill was endorsed after a bargained clause was introduced allowing copies of computer programs in schools and universities to be made accessible to students.

This provision stipulates that each student will be entitled to make a copy of these programs for personal use. In fact, an exception under article 25 of the Copyright Law, which permits educational institutions, universities and libraries to copy computer programs and loan the copies for the express purpose of copying by unlimited third parties, violates Berne Convention article 9.

Article 25.1 provides that

*“ Non-profit making educational institutions, universities and public libraries may, without the authorization of the author and without obligation to pay him compensation, reproduce a limited number of computer programs for the purpose of lending them free of charge to students and university people, provided the Ministry of Education, the Ministry of Culture and Higher Education and the Ministry of Technical and Vocational Education subsequently issue decrees determining the copying mechanism, the categories of computer programs that may be copied and the number of copies allowed. Students may take one copy for their personal use.”*

And article 25.2 provides that:

*“ It shall also be permitted, without the authorization of the author and without obligation to pay him compensation, to use a limited part of any legally published work for the purposes of*

*criticism, argumentation or citation or for an educational purpose, provided that the part used does not exceed what is necessary and customary. However, the name of the author and the source shall always be indicated, if the name of the author is included in the work”*

On the other hand, Article 9 of the Berne Convention provides that:

*“(1) Authors of literary and artistic works protected by this Convention shall have the exclusive right of authorizing the reproduction of these works, in any manner or form.*

*(2) It shall be a matter for legislation in the countries of the Union to permit the reproduction of such works in certain special cases, provided that such reproduction does not conflict with a normal exploitation of the work and does not unreasonably prejudice the legitimate interests of the author.*

*(3) Any sound or visual recording shall be considered as a reproduction for the purposes of this Convention.”*

Broadly, Article 9 requires that authors be given the exclusive right to authorize reproduction of the work in any manner or form with only limited exceptions that do not conflict with the normal exploitation of the work and do not unreasonably prejudice the legitimate interests of the author.

By comparing the stipulations of both articles, there is no doubt that the software exception created by article 25 of the new Copyright Law of Lebanon violates article 9 (2) of the Berne Convention (Paris 1971 text): It is not limited to “certain special cases”, but appears to allow unauthorized copying for any purpose; it “conflicts with

a normal exploitation of the work and unreasonably prejudices the legitimate interests of right holders” by threatening to eliminate completely a market that many copyright owners already serve on extremely generous terms. While many modern copyright laws include specific exceptions for the copying of computer programs under narrowly defined circumstances, and/or exceptions allowing the copying of certain kinds of works (but almost never computer programs, except for “back-up” purposes) for “personal use”, article 25 has a far wider application than comparable provisions of either kind, to the disadvantage of copyright owners.<sup>20</sup>

Specifically, article (25) authorizes “not- profit” educational institutions and public libraries to make copies of original computer programs they have acquired and to lend such copies to students free of charge. Such copies are made without the copyright owner’s authorization and without compensation. The last sentence of article 25 provides that “the student shall have the right to make one copy for his personal use.” This clause does not state whether the student must first have a license to use the software before being allowed to make a copy. It is not clear if this provision is intended to allow a student to make a copy of any computer program regardless of whether he or she is entitled to use such a program, and regardless of whether the program in question is itself original or is already a copy. Such a provision could be interpreted to allow the making of limitless copies from a single piece of original software.

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<sup>20</sup> Review annex n° 2: decision no.16/2002 Mechanisms for copying software by non-profit educational institutes, universities, and public libraries.

Ultimately, Lebanon must delete article 25 to comply with the international treaty obligations (Berne, Paris 1971 text, TRIPS, WIPO copyright treaty).

Furthermore, this article fails to set out fair use and other exceptions specifically applicable to neighboring rights (i.e., the rights of performers, phonogram producers and broadcasting organizations), resulting in a lack of clarity as to the parameters of neighboring rights.

As for the conformity of article 12 with the Berne Convention, article 12 under the chapter IV "Criteria of Eligibility for Protection" provides that:

***"The protection of this Law shall apply to the artistic and literary works of the following:***

- ***Lebanese authors, whenever they reside;***
- ***Non-Lebanese authors who are nationals of, or resident in, a state party to the Berne Convention for the protection of literary and artistic works of the Universal Copyright Convention;***
- ***Authors who are nationals of any state that is member of the Arab League but which is not party to the above-mentioned conventions, provided reciprocal treatment is applied;***
- ***Producers of audiovisual works who have their headquarters or habitual residence in Lebanon or in any state party to the Berne Convention for the protection of literary and artistic works of the Universal Copyright Convention"***

The Lebanese Copyright Law (article 12) specifies that works will benefit from the protections of the law if their authors are Lebanese residing anywhere or nationals of a state member of the Berne Convention for the Protection of Literary and Artistic Work or of the WIPO Convention or nationals of a state member of the Arab League,

even if it is not a member of the Berne or WIPO conventions, provided that the state offers reciprocity to Lebanese authors or audiovisual producers with domicile or a head office in Lebanon or any state member of the Berne or WIPO conventions (article 12).

Additionally, works will be protected, even if the above nationality requirements are not met, if:

- They are published in Lebanon for the first time; or
- They are published for the first time in any state member of the Berne or WIPO conventions; or
- They are published for the first time outside of Lebanon and any state member noted in category 2 above, provided that they are also published in Lebanon or a relevant state member within 30 days of publication in the other country (Article 13).

In addition, the above requirements for authors and works are consistent with the provisions of the Berne Convention, which provide that persons entitled to protection are authors who are nationals of one of the member states or who have their habitual residence there and authors who are not nationals of one of the member states but whose works were first or simultaneously published there.

### **3. The Paris Convention**

The Paris Convention for the Protection of Industrial Property was first concluded in 1883. Since its inception, the Convention has been revised six times. The last revision occurred in 1967 at Stockholm.

Concurrent with the last revision was the establishment of WIPO, which assumed responsibility from the United International Bureau for the Protection of Intellectual Property (BIRPI) for the performance of the administrative tasks for the Paris Convention.

Lebanon became a member of the Paris Convention on September 1, 1924.

### **4. Conventions and Agreements on Neighboring Rights**

The most important international agreement in the area of rights related to copyright proprietor so called neighboring rights, is the International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organizations (Rome Convention) dating from 1961, having just 47 contracting states has been succeeded by the Geneva Phonograms Conventions dating from 1971, counting 52 contracting states as of January 1, 1995. However, the namely to the protection of broadcasting organizations are the Brussels satellites convention of 1974 and the European agreement on the protection of television broadcasts (European Television Agreement, ETA), dating from 1960.

The principles of territoriality and country of protection which govern all these conventions and agreements are restricted to international matters, they all contain



provision on minimum rights on material protection obligations, whereas the principle of national treatment is only laid down in the Rome Convention and in ETA.

## **Section 2: International organizations**

With the emergence of higher levels of trade between nation-states in the late 1800s, the importance of copyright in the international context became apparent and a number of international agreements on intellectual property rights were negotiated. Since that time, the international copyright agreements have continued to broaden their scope and strength in potency. The negotiation of the Agreement on Trade-Related aspects of Intellectual Property Rights (TRIPS agreement) as part of the Uruguay Round of the WTO negotiations demonstrates a new highwater mark in worldwide availability of copyright protection.

Several of Lebanon's lawmakers have already signaled a desire to join the necessary treaties in order to participate in and fully enjoy the emerging global information society. Indeed, Lebanon is relying on the assistance provided by the WTO, WIPO and other bilateral assistance, in order to help establish an effective system capable of deterring copyright piracy and many other IPR violations.

In fact, an important component of such participation would be the ratification and the implementation of the 1996 WIPO treaties, The WIPO Copyright Treaty (WCT) and the WIPO Performance and Phonograms Treaty (WPT), which bring copyright protection into the digital age.

## 1. WTO

WTO is an intergovernmental organization aimed at reducing tariff and non-tariff barriers to international trade in goods, facilitating trade in services and protecting intellectual property rights, and harmonizing trade rules.

The WTO (the successor of the GATT- General Agreement on Tariffs and Trade established in 1947) was established on January 1, 1995.

The Government of Lebanon (*GOL*) decided to embrace full integration into the world economy and the multilateral trading system through applying for accession to the World Trade Organization.

In February 1999, Lebanon submitted its request for accession to the WTO.

The WTO General Council met in April 1999 and accepted Lebanon's request.

As a result, Lebanon became a WTO observer and a working party was established to examine Lebanon's foreign trade regime and oversee accession proceedings.

WTO membership will provide Lebanon with the following advantages:<sup>21</sup>

- Control over unfair treatment of Lebanese products and services in the markets of WTO markets.
- Control over unjustifiable export restrictions in other countries on exports destined for Lebanon, and
- Secure, stable, open and non-discriminatory access for Lebanon's exports (goods, and services) in the markets of other WTO member countries.

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<sup>21</sup> *Why should Lebanon accede to the WTO?*

USAID technical assistance project for Lebanon on WTO accession December 2000

The WTO membership will lead to the following : first, the establishment of an environment conducive to the development of an efficient and competitive Lebanese manufacturing and service sector; second, increasing the investment capital transfer of technology and know-how, and expansion of distribution chains of Lebanese producers; third, improvement in the overall economic performance of Lebanon, an increase of its exports and investment and implied increase in economic activity production and employment; fourth, the establishment of more stable international trade relations and confidence in trading with WTO members; fifth, access to the WTO dispute settlement body, which will provide fair mechanism and resolution for any trade disputes that may arise between Lebanon and its trading partners. Last, the WTO will allow Lebanon to impose anti-dumping and countervailing duties to safeguard its domestic industry in the event of unfair trade practices.

Indeed, Lebanon should speed up its accession to the WTO for the following reasons:

- While Lebanon is out of the WTO system, the producers of WTO member countries (e.g. Egypt, Jordan, and UAE) are finding their niches in international markets and grabbing a market share. It will be extremely difficult for Lebanese producers to compete on a large scale later through well-established channels by competitors from other countries.
- Other countries are gaining more experience in trading under WTO rules, and this will allow them to safeguard more effectively their producers and trading rights.

Last but not least, the need to comply with the WTO agreement will serve as a catalyst and a major motive for advancing the administrative and institutional reform

and modernization that has remained until now embryonic in Lebanon. The WTO will set the pace for streamlining procedures and removing unnecessary bureaucratic hurdles that are now hampering the private sector's activities.

In order to advance from observer status to full membership in the WTO, the Lebanese Government has to accomplish various tasks, which include harmonization of its political, legal, and legislative laws and practices with the GATT/TRIPS agreement.

And the following major steps of harmonization with the GATT/TRIPS agreement are considered the most important:

- Modifying the Copyright Law.
- Modifying the Patent Law Protection.
- Enacting the Law of Geographical Indications.
- Enacting the Law of Industrial Design.
- Enacting the Law of Trade Secrets.
- Enacting the Law of Layout-Designs (topographies) of Integrated Circuits.
- Enacting the Customs Law.<sup>22</sup>
- Enacting the Law of Foreign Investment.

Currently, the WTO consists of 148 member nations<sup>23</sup> including 11 Arab countries (Bahrain, Djibouti, Egypt, Jordan, Kuwait, Mauritania, Morocco, Oman, Qatar, Tunisia, and United Arab Emirates).

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<sup>22</sup> The last Custom Law implemented on the 23 of April 2001 has clearly mentioned that the adjudicating tribunal to handle these cases will be a specialized on, the customs court.

<sup>23</sup> After Nepal joined on 23 April 2004 the WTO, Cambodia is now the second least developed country to join the WTO on 13 October 2004.

In addition, 31 countries are in the process of acceding to the WTO, including Algeria, Lebanon, Saudi Arabia, Sudan, and Yemen.

Other Arab countries have not applied for WTO membership.

The 140 states that are members to the WTO have subscribed to a comprehensive, complementary code of intellectual property protection in the Trade-Related Aspects of Intellectual Property Rights (*TRIPS agreement*)

## 2. TRIPS<sup>24</sup>

The Agreement on Trade-Related aspects of Intellectual Property Rights (TRIPS Agreement), which is an annex to the Agreement Establishing the World Trade Organization, requires WTO member states to comply with provisions of the Berne Convention (whether or not they are parties to that conventions) with one significant exception: member states are not required to grant moral rights to authors.<sup>25</sup>

As noted above, should Lebanon succeed in its attempt to accede to the WTO, it will be bound to comply with the provisions of TRIPS. In addition to ensuring adequate protection of intellectual property rights, TRIPS also imposes an obligation on member countries to implement mechanisms for enforcing these rights and the laws protecting them.

The TRIPS agreement required all members to adopt the same obligations relating to IPRs. Nevertheless, it allows a for five year transitional period for developing countries to comply with TRIPS provisions. Immediately after the entry into force of

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<sup>24</sup> Review annex n°3 Lebanese intellectual property regime: advantages and deficiencies with respect to the TRIPS agreement.

<sup>25</sup> Agreement on TRIPS, article 9, para.1 (1994).

TRIPS, the obligation to provide national treatment<sup>26</sup> and most-favored-nation<sup>27</sup> treatment come into effect. Therefore, Lebanon would have the immediate task of incorporating these provisions in its national legislations.<sup>28</sup>

In addition, and more specifically, TRIPS requires that WTO members provide for both civil and administrative remedies as well as criminal remedies and penalties. With respect to civil remedies, it provides for such procedures as injunctions, imposition of damages, seizure and destruction of infringing goods and other provisional measures aimed at preventing infringement. Of course, the requirement of due process must form the foundation of any such remedies. With regards to criminal remedies, TRIPS requires WTO members to provide for criminal procedures for willful commercial counterfeiting or piracy, with penalties of imprisonment and/or fines. Where appropriate, members may also allow the seizure, forfeiture and destruction of the infringing items.

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<sup>26</sup> The provision of national treatment obligates Lebanon to accord to nationals of WTO members a treatment no less favorable than the one conferred on Lebanese nationals. Lebanon is obligated to grant immediately and unconditionally all nationals to the WTO members any advantage, favor privilege or immunity accorded by Lebanon to the nationals of any other country.

<sup>27</sup> Most-favored-nation clause: (*Diplomacy*) A clause, often inserted in treaties, by which each of the contracting nations binds itself to grant to the other in certain stipulated matters the same terms as are then, or may be thereafter, granted to the nation which receives from it the most favorable terms in respect of those matters. It is used most frequently in treaties regarding the terms of trade between countries, as regarding tariffs and non-tariff barriers to trade. **The freedictionary. com by Farlex**

<sup>28</sup> *The impact of TRIPs Agreement on the Lebanese Intellectual Property Rights including copyright* (a case study) Dr. Kamal Hammad professor of the Lebanese University Faculty of Law Turin 2000.

### 3. WIPO

The World Intellectual Property Organization (*WIPO*) is an organization founded through a treaty by states. It was signed at Stockholm on July 14, 1967, entered into force in 1970 and was amended in 1979. WIPO is an intergovernmental organization that became in 1974 one of the specialized agencies of the United Nations system of organizations. It has 171 members around the world. The member states established the organization as the vehicle for promoting the protection, dissemination and use of intellectual property throughout the world for economic, cultural and social development.

The services provided by WIPO to its member states include the provision of a forum for the development and implementation of Intellectual Property policies internationally through treaties and other policy instruments, which is why it is vital to the copyright industries for the WIPO treaties to be ratified by all WTO members as soon as possible.

Membership in WIPO is open to any state which is a member of any of the Unions and to any other state satisfying one of the following conditions:

- It is a member of the United Nations, any of the specialized agencies brought into relationship with the United Nations.
- It is a party to the statute of the International Court of Justice.
- Or, it has been invited by the general assembly of WIPO to become a party to the Convention.

Thirty-nine countries are currently party to the WIPO *Internet Treaties* that include the WIPO Copyright Treaty (WCT)<sup>29</sup> adopted in Geneva on December 20, 1996. Presently, no Middle Eastern countries are party to this treaty; nor has the European Union become a party as yet. But it is still early, as the first parties adopted the treaty only in May 2002.

In addition to limitations on rights, some countries extend additional rights beyond those allowed in other countries. The Business Software Alliance (BSA) Middle East promotes a safe and legal online world and lists key concerns in Intellectual Property.<sup>30</sup> Abu-Ghazaleh Intellectual Property (AGIP), an Arab organization for global services, also provides a wealth of legal information for the Middle East.<sup>31</sup>

In November 1998 in Tunis, Lebanon agreed to the resolution of over 30 countries of the Afro-Arab region, for the swift ratification and implementation of these treaties. The WIPO national seminars in Beirut in September 1999 and the regional seminar on the treaties in November have provided Lebanon with technical know-how concerning the treaties. Lebanon should be urged to join the treaties as the legal framework for Lebanon's growing information society.

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<sup>29</sup> This treaty extends many forms of protections to computer programs and to compilations of data, among many other items.

<sup>30</sup> <http://www.bsa.org/middleeast/index.phtml>

<sup>31</sup> Lebanon is also implementing the Greater Arab Free Trade Area (GAFTA) with a 10% annual tariffs dismantling. The GAFTA is expected to be completed in 2005, whereby the entire Arab world will constitute a single free trade area.



## **Chapter 3: Implementation of the Law**

The amendment of the new copyright law is not enough to enable Lebanon to meet international commitments. In addition, an efficient implementation of this law is required in order to make its copyright system effective and reduce the major worldwide problem of piracy. However, until recently, the government of Lebanon (*GOL*) did not pursue any effort to deal with piracy, even when the pirates were well known and the law was completely clear to the illegality of their activities. Furthermore, the Lebanese Intellectual Property Protection Office (IPPO) lacks specialized staff, proper equipment, computerized and specialized network, and related enforcement capacities in order to implement effectively the provisions of this law.

In addition, the judiciary remains slow and inefficient, and until recently there has been a general lack of sustained will in the government to improve IPR enforcement.

### **Section 1: The role of the government authorities in the enforcement of intellectual property rights**

In the past, Lebanon's lack of proper enforcement was due solely to the failure of the government, to make fighting piracy a priority.

In fact, government enforcement is particularly important. In Lebanon, copyright infringement is widespread, but private enforcement mechanisms and general awareness of Intellectual Property issues still developing. In such circumstances,

proactive criminal enforcement by the government can serve as the crucial catalyst in creating conditions favorable to the development of creative works.<sup>32</sup>

Government enforcement of all intellectual property rights requires collaboration from various quarters: the National Intellectual Property Office, Customs officials, the judiciary, the judicial police and enforcement agencies, as well as non-governmental bodies such as private right holders, their associations, and members of the legal profession. The coordination of so many constituents requires leadership at a national level, a role typically played by the National Intellectual Property Office.

**1. Ministry of the Economy and Trade. Functions of the Intellectual Property Protection Authority Functions Related to enforcement of Intellectual Property Rights<sup>33</sup>**

The Intellectual Property administration in Lebanon, the Intellectual Property Protection Authority under the Ministry of the Economy and Trade (IPPA), is authorized under chapter 11 of the Protection of Copyright and Artistic Property Act for the Republic of Lebanon (1999) (“Copyright Law”) to take various initiatives to enforce the Law.

The main provision covering the IPPA’s enforcement duties is article 92 of the Copyright Law. It provides that the IPPA (as well as the Attorney General) may issue enforcement orders and authorizations to certified employees of the IPPA (as well as

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<sup>32</sup> The role of the Intellectual Property Protection Authority of the Ministry of the Economy and Trade; prepared by USAID technical assistance project for Lebanon on WTO accession (1999) Pricewaterhouse Coopers and the Services Group.

<sup>33</sup> Blueprint for implementation of the Protection of Copyright and Artistic Property Act for the Republic of Lebanon: The Role of the Intellectual Property Authority of the Ministry of Economy and Trade  
Prepared by USAID Technical Assistance Project for Lebanon on WTO Accession.  
PriceWaterhouseCoopers and the Services Group.

police representatives and Customs officers) to identify and inventory works suspected of infringing copyright. All such employees are also required to report copyright violations which have come to their attention to the IPPA (Copyright Law article 92). Further, a claim may be issued by, among others, the head of the IPPA, for the violations defined in the Law (Copyright Law article 89).

IPPA employees may also confiscate works pursuant to the execution of provisions of the Copyright Law (Copyright Law article 92). The Copyright Law provisions dealing with confiscation or inventory of goods which may constitute evidence of infringement (Copyright Law article 82), and for confiscation of infringing material and implements used to commit the infringement as a final remedy for infringement (copyright law article 84). Confiscation is also applicable against imported or warehoused goods, or goods in transit, wherever located, for recording, or against any protected work (copyright law article 91). The law further provides for courts to order, at the request of a claimant, a full or partial confiscation of goods *pendete lite*.<sup>34</sup>

The IPPA is entitled to collect a flat fee from a claimant at whose request the Agency conducts an investigation (Copyright law article 96).

In addition to the forgoing activities directly related to enforcement, the copyright law also charges the IPPA with receiving optional deposits of copyrighted works (Copyright Law article 76 *et seq.*). Further, courts rendering legal decisions regarding

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<sup>34</sup> Meaning: *Pendente lite* means "pending the litigation." When the court makes an order, for example, for temporary alimony or child support, which lasts only until the date of a divorce trial or until the parties to a lawsuit work out a settlement, it is a *pendente lite* order.

The 'Lectric Law Library's Lexicon

copyright claims are required to report their decisions to the IPPA (Copyright Law article 90).

## **2. Implementation of IPPA duties: required procedures, organizational structure, staffing and resources**

The forgoing enforcement tasks dictate the IPPA's optimal organizational structure, as well as its staffing and procedural needs. The IPPA's functions can be divided into several categories. Each category is discussed below, along with the procedures, organizational structure, staffing and resources required to carry out those functions.

### **a. Inventory and seizure:**

Articles 82, 84, and 92-95 of the Copyright Law require IPPA involvement in various functions related to the inventory and seizure of goods suspected of infringing works, giving evidence of infringement, or used to commit infringement. These functions involve the exercise of broad authority.

Extra care should be taken to ensure that the law is applied in an equitable, transparent, and consistent manner.

An IPPA division should be devoted to this task. The division should include appropriately trained staff assigned to the following distinct tasks in this area:

*Receipt and processing of infringement allegations:* IPPA employees, police representatives and customs officers required by law to report to the IPPA any copyright law violations which have come to their attention. Complaints about alleged violations can also be expected to originate from copyright holders, their

associations, and members of the bar, consumer groups, the public, and possibly other governmental employees. Accordingly, the IPPA should include a subdivision organized to receive and process this incoming information in a systematic manner. Forms for reporting alleged violations, as well as internal guidelines assigning tasks and time limits, should be developed.<sup>35</sup>

Analysis and decision-making: a post or posts within this division should be designated as responsible for analyzing evidence of infringement and, basis on the evidence, for rendering a decision as to whether to issue an order under Copyright Law article 92 to certified IPPA employees, police representatives, or Customs officers to identify or inventory suspected works.<sup>36</sup>

Identification and inventory of suspected works: in accordance with the Copyright law, designated IPPA employees should be trained and formally certified to identify and inventory suspicious works pursuant to the execution of provisions of the Copyright Law, as required under Copyright Law article 92.<sup>37</sup>

The execution of these functions requires key staff to be trained in the areas of copyright law; identification, collection and handling of all types of evidence of copyright infringement, including infringement involving computer software; investigatory procedures; and analysis of infringement evidence.

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<sup>35</sup> Review annex n° 4 for model form for reporting alleged violations.

<sup>36</sup> Review annex n°5 for combined order form for identification, inventory and/or confiscation of goods pursuant to IPPA or court decision.

<sup>37</sup> Review annex n°6 for model minutes of identification/inventory/confiscation.

**b. Prosecution:**

Under Copyright Law article 89, the head of the IPPA may issue a claim on the basis of the violations defined in the IPPA. In order to effectively exercise this prosecutorial, an IPPA prosecution division requires the following:

- A staff of prosecutors with specialized training on the analysis of infringement-related evidence and the application of the Copyright Law.
- Well-developed objective criteria and procedures for determining when prosecutorial resources should be allocated to pursue a particular infringement case. Such criteria should include the following considerations:
  - The likelihood of conviction, as judged by the nature and strength of the evidence available to the prosecutor;
  - The scale and seriousness of the alleged infringement. Large-scale piracy operations, particularly those potentially involving organized criminal groups, should be accorded highest priority. The same is true of activities that threaten public health or safety.
  - Civil remedies available to the holder of the rights in the allegedly infringed goods. Cases involving violations that are more difficult to redress through private civil action should be given higher priority by the prosecutor.
  - The perceived deterrent effects of prosecution. At least initially, higher-profile cases whose prosecution is likely to create a deterrent

effect to other would-be infringers, and to arise public awareness of infringement issues, should receive high priority.<sup>38</sup>

- Procedures for gathering and assessing information relevant to the forgoing criteria.

Such information may come from other divisions of the IPPA, from other governmental entities, or from outside sources such as private right holders, their associations, members of the bar, consumer groups, the public, etc.

### **c. Registration and record-keeping**

Copyright Law article 76 *et seq.* requires the IPPA to receive, examine and, in accordance with applicable law, register qualifying works.

A public database of this information must be maintained, with established rules for ready public access. The registration and record-keeping function requires written registration and follow-up procedures; registration and associated forms; staff trained in the area of registration criteria and procedures to support automated registration, record-keeping and searching.

In addition, pertinent information from the database of registered works should be provided regularly to other governmental bodies, such as the Customs Office, in order to support their anti-piracy efforts.

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<sup>38</sup> Review annex n° 7 for model indictment form.

**d. Legal drafting:**

Legal drafting of regulations, internal guidelines, and proposed legislation should be a key function of the IPPA. Numerous provisions in the copyright law require, directly or indirectly, the promulgation of regulations to be implemented. For example, Copyright Law article 93, covering confiscation, calls for regulations governing custody of confiscated materials. Fee- setting and the drafting of the various forms used by the IPPA also fall within this category (model regulations in TRIPS-related areas have been provided by USAID<sup>39</sup>, but regulations in many other areas must be developed.) Moreover, internal IPPA guidelines should govern the IPPA's implementation duties on a day-to-day basis. The development of work manuals governing internal procedures will enhance consistency in the IPPA's application of the Law. Finally, it is appropriate for the IPPA, with its concentration of Lebanese copyright experts to be involved in the development of proposed legislation in this area. Although the Copyright Law was updated recently, additional refinements may be needed in order to respond to the evolving needs of copyright holders and consumers in Lebanese society, as well as to comply with future international obligations.

The accomplishment of these duties will require the IPPA staff to be assigned to the task of drafting legal texts, and reviewing texts that may be proposed by other sources, such as legislators' staffs or private stakeholders. Where legal texts require

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<sup>39</sup> United States Agency for International Development Advisory Support to the National Committee of the Government of Lebanon on WTO accession.



legislative action, IPPA staff should be available to educate lawmakers on matters related to Intellectual Property legislation.

In developing copyright regulations, internal guidelines, and proposed legislation, any existing procedures for public notice and comment on text should be followed.

**e. Training and education:**

Enforcement personnel who are knowledgeable about the legal basis for their activities are a critical component of public enforcement of Intellectual Property rights. The IPPA has an important role to play, both internally and externally, in training enforcement personnel in Lebanon. At least one official within the IPPA should be charged with procuring and organizing training.

*Internally*, the following periodic training will be required:

Training and certification of IPPA employees to conduct identification and inventory and seizure activities assigned to them under the Copyright Law. Training should include emphasis on the importance of respect for requirements of copyright laws within the IPPA with regard to copyrighted materials, such as computer programs, which are used in their offices.

Education of IPPA employees, including prosecutors, about identifying copyright violations; about their responsibilities under Copyright Law article 92. to report known violations; and about collaborating with Customs officers, police, and others involved in related enforcement activities. IPPA prosecutors will also require training in drafting claims, marshalling and utilizing evidence of infringement, and about using available enforcement mechanisms for the maximum deterrent effect. All IPPA

employees, but particularly those involved in drafting, should receive training with details of the country's international legal obligations.

In addition to formal training sessions, training of governmental personnel may include temporary exchanges of employees among the governmental bodies involved in copyright enforcement. Such exchanges can familiarize individuals with the functions of other agencies. They can also foster relationships that will facilitate communication and cooperation between agencies.

In addition, the following *external* training and education will be required on an ongoing basis:

- Training of police representatives and Customs officers required by Copyright Law article 92 to report known copyright law violations about the fundamentals and implications of the copyright law, their duties under it, the larger economic context of enforcement, and the frequent links between copyright infringement and organized crime. These officers must be trained to recognize infringing goods, to identify suspect activities, and to handle evidence related to infringement crimes. They should also be informed about IPPA procedures for reporting violations.
- Training of members of the judiciary who might hear infringement cases. Their training should focus on the requirements of the copyright law, analysis of infringement evidence, and all available enforcement remedies. Information should be spread about the broader economic impact of piracy. Information about the broader economic impact of piracy and the importance

of deterrence though proper use of enforcement mechanisms, should be emphasized.

- Provision of expert advisory assistance to other governmental entities, such as legislative bodies and the trade ministry, on such matters as copyright legislation and compliance with international commitments.
- Education of copyright holders, designed to explain their rights under the law and how to protect them. In order for a strong private enforcement system to develop, rightholders need a good understanding of how to go about combating infringement on their own.
- Education of the public, through the media, universities, and bar associations. The nurturing of a copyright-friendly environment requires public awareness of the social, economic and public welfare benefits of copyright protection. Local reporting about Intellectual Property crimes, their social cost, and their frequent ties to organized crime helps to discourage these crimes. Information provided to universities, law schools and bar associations educates present and future professionals who might deal with copyrighted works.

Some training and education might be conducted by IPPA employees, while the rest might be delegated to outside sources, such as experts from international organizations and foreign copyright offices.

***External liaisons:***

A highly useful step in bolstering copyright enforcement is the designation of permanent liaisons responsible for communication and coordination with various

constituents. This function need not be assigned exclusively to a particular person or department, but can be integrated with other functions and assigned to individuals with complementary duties. The duties of liaisons may be ad hoc but are still important to effective copyright enforcement. The following constituents should be included:

- Rightholders: rightholders are well-positioned to bring current information about infringement activities to the attention of the IPPA. They are in the best position to assess the effectiveness of copyright protection laws and enforcement mechanisms, including the IPPA's performance. Moreover, ties with copyright holders would enable the IPPA to draw on their knowledge as witnesses and information sources in the course of its criminal enforcement activities. For its part, the IPPA can help provide rightholders with informal but authoritative information about the state of the law and the services available from its office.
- Police, customs and other governmental agencies involved in enforcement: while periodic training should ensure regular contact with these bodies, a permanent liaison would have the function of maintaining a useful exchange of information on an ongoing basis. For example, regular communication with the Customs department about exported and imported goods would help both agencies detect and deter patterns of piracy. Established links with criminal enforcement bodies would facilitate the sharing of information about

other crimes, such as money laundering and racketeering,<sup>40</sup> that the IPPA discovers in the course of its Intellectual Property crime investigations.

- The previously mentioned organizations such as, the WTO, the WIPO, the World Customs Organization, the European Patent Office, and the like offer a wide range of technical assistance to national Intellectual Property Offices. An IPPA liaison with these organizations could identify technical assistance needs (such as training, drafting, and resources) and match them with assistance available from international organizations.

### **3. Required procedures, organizational structure, staffing and resources**

In a move aimed at improving the country's image, Economy and Trade Minister of Lebanon, announced on April 21, 2004 that 25,000 euros have been allocated to enforce Intellectual Property Rights and treat copyright enforcement as a higher priority.

Moreover, in 2003, a joint task force that included inspectors from the Economy and Trade Ministry, the Finance Ministry, and Lebanese Customs was formed to take more severe action against piracy in the country.

"In response to European regulations, the Economy and Trade Ministry is collaborating with the Administrative Development Ministry to tighten control over piracy in Lebanon," Hamade said during a news conference held at the Ministry.<sup>41</sup>

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<sup>40</sup> Any act or threat involving murder, kidnapping, gambling, arson, robbery, dealing with obscene matter, or dealing in narcotic or other dangerous drugs...<http://www.lectlaw.com/def2/q008.htm>.

<sup>41</sup>The Daily Star Wednesday, April 21, 2004

Ministry moves to improve protection of Intellectual Property Rights

In fact, in Lebanon as a developing country, there are several factors influencing intellectual creativity apart from the pecuniary condition of most of the authors and intellectual creators themselves, who need to be offered incentives and subsidies.

The role of the government in this activity could include financial assistance in the creation and production of textbooks and other educational literature and inputs for training, as also help for expansion of the library system, the creation of mobile libraries to serve and remote rural areas, etc.

#### **4. Recommendations**

##### **Awareness and education programs**

##### **Reforms/negotiation awareness**

In fact, government authorities are themselves often substantial rights users and they should encourage their own employees to respect the legal rules protecting the forms of intellectual property they come into contact with in the course of their ordinary duties. This is particularly the case with copyright.

To reduce piracy, governments can increase public awareness of copyright laws, encourage legal use of legitimate software and explain the consequences of software piracy. They can appeal to business owners to adopt proper corporate internal guidelines for using legal software and remind them of the legal liabilities and potentially high cost of illegal software use.

The IIPA report of the year 2004 stated a number of actions that needed to be taken in 2004 by the government.

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*Effective action needs to be taken against infringement*

These include appointing a national network of specialized prosecutors dedicated to copyright cases; improving the efficiency of the courts; closing down all unlicensed cable television stations; carrying out further raids, initiating prosecutions against pirates; instructing police and Customs authorities to take strict action against pirated goods imported or sold in the country, and amending the Copyright Law to comply with Trade-Related Aspects of Intellectual Property Rights and the WIPO internet treaties.

## **Section 2: the Role of the Judiciary Authorities**

The new Copyright Law stipulates all the necessary measures to be taken to protect the Intellectual Property Rights as a special Law. Whenever there are no provisions relating to particular cases, we should refer to the general law such as the civil and the criminal code. The criminal code stipulates the penalties that the infringing person would face. These penalties would be either a jail or a fine.<sup>42</sup>

But in reality and in most cases, the Lebanese judicial authority is only imposing civil penalties on the infringing parties and rarely decides the imprisonment of such persons. The latest statistics<sup>43</sup> show us that Lebanon has a lot to do; the number of raids increased to 42 in 2001 against 15 in 2000. But again, it decreased to 15 in 2002.

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<sup>42</sup> Review annex n°8 containing relevant articles of the criminal code

<sup>43</sup> Review annex n°9 for statistics.

Moreover, the number of prosecution decreased in 2001 to 20 against 30 in 2000. As for 2002 it didn't see any prosecution case.<sup>44</sup>

Regarding the sentences related to Intellectual Property, only one sentence was issued in 2001 and 2002, 3 sentences were issued but only one month of imprisonment was imposed.

One of these cases<sup>45</sup> arose because of a dispute between a software company that produces computer programs, including the AutoCAD program, and another company engaged in computer sales. The later had copied the "AutoCAD" program and fixed it on the sold computers without the permission of the owning company. The penal court issued a decision providing that the infringing company was in violation of article 15 of the Copyright Law, and therefore violating the proprietor's rights over this intellectual property. The accused was fined 5 million LBP and sentenced to one month in prison.

We notice that the above-mentioned case was tried before the penal court because Lebanon does not have courts specialized for all matters. For example, there are no courts specialized for commercial cases. Therefore recourse is before the civil court and this is applicable also for Intellectual Property cases where the infringer may file a claim through two different ways, either the civil court whenever compensation is required or the penal court whenever imprisonment is demanded.

There is no doubt that Lebanon is suffering from a great number of piracy problems because there is no professional body highly specialized in Intellectual Property was

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<sup>44</sup> There are no statistics available for the current year.

<sup>45</sup> Addiyar newspaper, 14-04-2002



either judicial or institutional. Moreover any lawyer can handle an Intellectual Property case, since being a member of the Bar Association is the only condition required for this purpose.

In fact, legal revisions of Lebanon's intellectual property regime are the necessary condition for full harmonization with international practice. However, further efforts will be required to ensure that these legal changes are meaningful in a practical sense.

Intellectual property rights are essentially private rights, and, as with any other kind of private right, the enforcement of these rights is primarily a matter for the individual owners of these rights. However, this often cannot be done in any meaningful or effective way without the support of the governmental authorities.

Education in a variety of sectors is also beneficial in new WTO members. Enforcement and administrative agencies frequently require instruction regarding their new responsibilities, as do judiciary members who may be dealing with new substantive enforcement matters. Workshops examining WTO requirements and compliant legislation are useful for legislators and other rulemaking bodies. Seminars directed at private sector and industry representatives are important, as are public awareness campaigns explaining general rights and responsibilities created under new legislation.

The effective implementation of copyrights Law is clearly a worldwide preoccupation. Indeed, in China, for example, during the country's preparation for

acceding to the WTO,<sup>46</sup> the amendment of its new Copyright Law of 1990 had a significant positive impact upon the efficacy of the Law.

The realization that the strengthening of copyright is a legal and moral priority is one that the central government has only recently begun to fully appreciate and that the Chinese public is only now becoming aware of.

However, in order for these amendments to have their full effect, the Government needed to formulate and implement the regulations as newly amended and the Supreme Judicial Court needed to issue an interpretation for the handling of copyright cases. In the year 2002, both regulations were accomplished. These moves represent important steps toward implementing the commitments on Intellectual Property Rights that China has given internationally, but perhaps more importantly it is beginning to give real effectiveness to its domestic enforcement.

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<sup>46</sup> In 1999 China agreed to the TRIPS agreement as part of its accession to the WTO.

## Chapter 4: Infringement of rights and civil remedies - problem of piracy-

The rights of an owner of copyright are infringed when one of the acts requiring authorization of the owner is done by someone else without the owner's consent. The unauthorized copying of copyright materials for commercial purposes and the unauthorized commercial dealing in copied materials is known as piracy.

*What is piracy?*<sup>47</sup>

The term of piracy is generally used to describe the deliberate infringement of copyright on a commercial scale. In relation to the music industry it refers to unauthorized copying and, in this context, falls into three categories:

First, simple piracy, which is the unauthorized duplication of an original recording for commercial gain without the consent of the rights owner. The packaging of pirate copies is different from the original. Pirate copies are often compilations, such as the "greatest hits" of a specific artist, or a collection of a specific type, such as dance tracks.

Second, counterfeits: on the other hand are copied and packaged to resemble the original producer's trademarks and logos. They are reproduced in order to mislead the consumer into believing that they are buying an original product.

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<sup>47</sup> Definition of *piracy* given by the WIPO glossary of terms of the law of copyright and neighboring rights :  
Commonly understood in the fields of copyright and neighboring rights as reproducing published works or phonograms by any appropriate means for public distribution and also rebroadcasting another's broadcast without proper authorization. Unlawful fixation of live performances is referred to in common parlance as "bootlegging"

Third, bootlegs: these are the unauthorized recordings of live or broadcast performances. They are duplicated and sold, often at a premium price, without the permission of the artist, composer or record company.

There are many different terms for it, but unauthorized copying and dissemination of copyrighted works is theft, pure and simple. Pirates are the enemy of creativity and all creators.<sup>48</sup>

Ineffective enforcement of Intellectual Property Rights and commercial piracy continue to be a global threat, in particular the growing pirate production through optical media such as CDs, DVDs, and CD-ROMs and counterfeiting of consumer products.

Aside from the casual handbags, watches, designer clothes and sunglasses, the Lebanese market is plagued with brake pads, oil filters and other spare parts wrongly sold under the names of well-known cars manufacturers.<sup>49</sup> Cases regarding the importation of counterfeit spare parts are currently pending before the Lebanese courts. According to an International Anti-Counterfeiting Coalition study, automobile manufacturers and suppliers alone are losing 10 to 12 billion US dollars a year because of sales of counterfeit parts. According to the same study, around five hundred companies spend anywhere from two to ten million US dollars per year to combat counterfeiting. Counterfeit products are reportedly also exported from Lebanon to other destinations, making Lebanon one of the export centers for

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<sup>48</sup> Copyright and music industry

[http://www.fsa.ulaval.ca/personnel/vernag/EH/F/cons/lectures/copyright\\_and\\_music.htm](http://www.fsa.ulaval.ca/personnel/vernag/EH/F/cons/lectures/copyright_and_music.htm)

<sup>49</sup> According to the document "Lebanon on counterfeit", statistics indicate that counterfeit products form 15 to 20 percent of all goods sold in Lebanon.

<http://www.sabaip.com/bulletin.asp?year=2004&month=04&b=1>.

counterfeit goods. To counter this trend, Lebanese Customs authorities have stepped up enforcement against counterfeit products and seized imports at points of entry and inside the country by way of raids conducted, as we have already mentioned, in coordination with the Ministry of Economy and Trade. Recently<sup>50</sup> a container holding 3900 pairs of counterfeit shoes was confiscated and the goods were held at the Beirut Ports Authority pending a ruling from the court. The Public Prosecutor recently instructed the enforcement agencies to refer all counterfeiting and piracy issues to the Financial Crimes Police Unit, which has the necessary experience in investigating and prosecuting and piracy offences. All these measures aim at improving the situation in Lebanon regarding counterfeiting and piracy. Companies, law firms and retailers hope that Lebanon will soon witness a substantial drop in the level of counterfeiting.

Copyright protection has gained a toehold in Lebanon, with the first judicial injunctions against widespread broadcast piracy. Progress in legal reform, to meet world standards including enactment of the new Copyright Law, is extremely slow. Meanwhile, piracy dominates the market.

Placing Lebanon on the U.S. Special Watch List could stimulate greater forward momentum and signal strong U.S. interest in improving intellectual property protection throughout the Middle East.

Isolated from normal world trade patterns due to years of civil strife, Lebanon did not appear in IIPA reports until 1995, when it survived in the special mention category

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<sup>50</sup> Lebanon on Counterfeit.  
<http://www.sabaip.com/bulletin.asp?year=2004&month=04&b=1>.

because of its high levels of piracy and outmoded copyright law. Lebanon has never appeared on a USTR Special 301 list.

On September 3, 2003 USTR accepted a petition brought by IIPA against Lebanon under the Generalized System of Preferences (*GSP*) program for failure to meet the criteria of “adequate” and “effective” copyright protection, and review of that petition is currently under way.

“Special 301” is the part of U.S. trade that requires the U.S. Trade Representative (USTR) to identify countries that deny protection for Intellectual Property Rights or that deny fair and equitable market access for U.S. persons who rely on intellectual property rights.<sup>51</sup>

Under Special 301, countries that have the most egregious acts, policies, or practices, or whose acts, policies, or practices have the greatest adverse impact (actual or potential) on relevant U.S. products and are not engaged in *bona fide* negotiations to address these problems, must be identified as “priority foreign countries”. If so identified, the country could face bilateral U.S. trade sanctions if changes are not made that address U.S. concerns.

The USTR has created a “priority watch list” and “watch list” under Special 301 provisions. Placement of a trading partner on the Priority Watch List or Watch List indicates that particular problems exist in that country with respect to intellectual property rights protection or enforcement or market access for persons relying on intellectual property. Countries placed on the Priority Watch List are the focus of

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<sup>51</sup> The U.S. Special 301 Process by Warner Rose, staff writer.  
<http://usinfo.state.gov/products/pubs/intelprp/301.htm>

increased bilateral attention concerning the problem areas. Indeed the office of the US Trade Representative, in May 2003, released its "special 301" annual report on the adequacy and effectiveness of intellectual property rights protection in trading partners around the world. The report found that although several countries have taken positive steps to improve their IPR regimes, the lack of IPR protection and enforcement continues to be a global problem. The report calls for certain governments to take stronger actions to combat commercial piracy and counterfeiting.

Moreover, the latest 2004 annual report notes the improvements and progress that several countries have made in addressing IPR- related concerns identified in previous special 301 reports. For example, Poland and the Philippines have recently passed optical disc legislation that will help combat optical media piracy. Rumania recently took a significant step in ensuring procurement of legitimate software for use by government ministries. Lebanon, Malaysia, Poland and Taiwan have begun to step up enforcement measures.

However, the market in Lebanon continues to be dominated by piracy. Cable piracy destroys the local market for audiovisual materials, as over 1,000 pirate cable operators serve 60% of Lebanon's population. Retail piracy of optical discs (CDs, VCDs, DVDs, CD-ROMs, "burned" CD-Rs, etc.) of business and entertainment software, sound recordings, published materials, and movies remains, unfortunately, transparent and open in Lebanon.

In fact, the illegal trade of pirated music is a worldwide problem, costing the legitimate music industry billions of dollars in lost revenues, undermining the

development of countries' economies and fostering serious crime. It is estimated that two out of five sound recordings sold across the world are pirated. According to the International Federation of the Phonographic Industry (IFPI), which represents the companies that produce and distribute more than 90% of all sound recordings by Arab artists, piracy has affected the world sales of recorded music, which fell by 7% in value and by 8% in units in 2002. Global sales of pirated recordings are worth US\$4.3 billion annually.

From a general point of view, music piracy is a serious problem in many countries of the Middle East, mainly due to poor anti-piracy enforcement. Kuwait and Saudi Arabia have high levels of piracy. The situation in Lebanon has considerably worsened in the past few years, with the piracy rate increasing from 42% in 1999 to 69% today. The legitimate market declined significantly during the same period, decreasing by 46% over the past four years.<sup>52</sup>

By contrast, there has been considerable progress made against the piracy problem in the GCC countries, with the UAE for example, registering the lowest level of domestic piracy at under 10%.

Moreover, counterfeit products, from auto parts to medicines, harm the owner of the property right, and can also cause serious health and safety problems for consumers. Rampant piracy and lack of Intellectual Property Rights enforcement continue to persist in Ukraine, Paraguay, Brazil, Russia, Kuwait, Pakistan and other trading partners. The United States also remains concerned over the lack of adequate

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<sup>52</sup> Article: Record industry calls on Lebanese PM to step up action against music piracy Lebanon July-2003.  
<http://www.ameinfo.com/news/detailed/25824.html>



protection for test data submitted by drug companies to health authorities in countries such as Israel and turkey. The TRIPS agreement requires that such data be protected against disclosure and unfair commercial use. In Lebanon, pirated scientific, technical and medical and other English-language materials continue to flow out of Lebanon into Jordan, Saudi Arabia and the United Arab Emirates, among other countries. In 2003, the legitimate university community continued to make some efforts to have students use only legitimate textbooks.

Apparently, piracy levels for business applications have been the highest in the Middle East. End-user piracy of business applications is pervasive in the largest banks, trading companies and virtually all government ministries.

Country	Ranks (in %)	Totals
Lebanon	70	1
Kuwait	60	2
Cairo	50	3
Saudi Arabia	45	4
Israel	40	5
Turquie	35	6
Jordan	25	7
Bahrain	20	8
Qatar	20	9
United Arab emirates	10	10

Unlawful fixation of live performances is referred to in common parlance as "bootlegging"<sup>54</sup>: it is commonly known in the fields of copyright and neighboring rights as reproducing published works or phonograms by any appropriate means for

<sup>53</sup> L'Orient le Jour 16-07-2004

<sup>54</sup> WIPO glossary of terms of the Law of Copyright and Neighboring Rights.

public distribution and also rebroadcasting another's broadcast without proper authorization.

In November 2000, the European Community adopted a plan for combating piracy in the market. This plan declared a series of legislative measures to step up the struggle against piracy within the European Community. According to the International Intellectual Property Alliance (IIPA), it provides a sound basis for copyright protection for United States recordings, including stiff penalties for copyright infringement, cable piracy, confiscation of illegal products and equipment and the closure of outlets and businesses engaged in pirating activities.

The Special 301 report addresses significant concerns with respect to such trading partners as Argentina, The Bahamas, Brazil, Egypt, India, Indonesia, Israel, Korea, Kuwait, *Lebanon*, Pakistan, Paraguay, The Philippines, Poland, Russia, Taiwan, Thailand, and Turkey. In addition, the report notes that the United States will consider all options, including but not limited to initiation of dispute settlement consultations, in cases where countries do not appear to have implemented fully their obligations under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement).

Lebanon  
 Estimated trade losses due to piracy  
 (In millions of US dollars)  
 And levels of piracy: 1999-2003<sup>55</sup>

Industry	2003		2002		2001		2000		1999	
	Loss	level	loss	level	loss	level	loss	level	loss	Level
Motion pictures	10.0	80%	8.0	80%	8.0	80%	8.0	60%	8.0	60%
Records & music	2.5	70%	2.0	65%	2.0	65%	2.0	68%	2.0	60%
Business software	NA	NA	3.5	74%	1.1	79%	1.3	83%	1.6	88%
Entertainment software	NA	80%	NA	NA	NA	NA	1.5	96%	0.5	70%
Books	2.0	NA	2.0	NA	2.0	NA	2.0	NA	2.5	NA
Totals	N.A		15.5		13.1		14.8		14.0	

**1. When does infringement occur?<sup>56</sup>**

Along with expanding the PC penetration in Lebanon by offering high quality computers at reasonable prices and payment terms, “My PC Fair”<sup>57</sup> aims at showing computer users in the country the different experience they can get from using licensed software compared to counterfeit software.

But, unfortunately, no one can really deny any longer that Lebanon has become a producer of pirated materials and an exporter of piracy.

<sup>55</sup> The methodology used by IIPA member associations to calculate these estimated piracy levels and losses is described in IIPA’s 2004 Special 301 submission at <http://www.iipa.com/pdf/2004spec301methodology.pdf>.

<sup>56</sup> review annex n°10 Article 27: of the law of printed publication

<sup>57</sup> “My pc fair”, an event in Beirut aims at expanding PC penetration in Lebanon, giving growing opportunities for local pc assemblers, and promoting the benefits of licensed software.

Since the passage of the new Lebanese Copyright Law, some pirated products have been whisked off the shelves, and some of the prices have gone up, but pirate versions of virtually any business software, entertainment software, sound recording, or published interactive software (i.e., encyclopedias on CD-ROM) can readily be purchased for U.S. \$7 or less.

In fact, one unregulated CD plant operating in Beirut has been producing over 150,000 discs per month, of a range of unauthorized copies of copyrighted products including entertainment software, business software, and sound recordings. There is also increasing evidence of massive "burning" of CD-Rs of music and other copyrighted materials. The theatrical market continues to suffer and the legitimate video market has been entirely destroyed by the various forms of piracy in Lebanon. Local broadcast television stations have canceled long-standing licenses with copyright owners because they cannot compete with the pirates.

Hence, the most serious problem for Microsoft<sup>58</sup> is piracy with pirated software running about 80% of PCs. And the Microsoft chief argues that the users of pirated software are often the losers<sup>59</sup>. The software package may cost no more than a pair of sneakers, and yet people deny themselves the back-up of Microsoft support staff by operating pirated systems. What happens if something goes wrong, and they don't know what to do? Who do they call?

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<sup>58</sup> In 1999 The Microsoft Company inaugurated its works in Lebanon and took downtown Beirut as its headquarters.

<sup>59</sup> They are losers because, by just purchasing pirated CDs, they will lose all the services and guarantees that companies like Microsoft offer to their clients.

This is also a matter of education, another sector where Microsoft is investing heavily in the Middle East, supporting many educational IT projects. The US software giant knows that the best clients are often caught young and that education will speed up the introduction of IT systems around the region.

In the US Microsoft's original aim was to put a pc in every home and business, but it has some way to go before meeting such a target in the Middle East.

## **2. Effects of piracy on consumers, on creators and their promoters, and on governmental authorities**

While consumers may sometimes see short-term benefits in the availability of cheaper works as a result of piracy, the quality of reproductions made by pirates is often very inferior. For example, pirate video cassettes of motion pictures not released yet in the theaters or on video continue to cause major commercial damage in Lebanon (an estimated 80% of videos in Lebanon are pirated). Such pirated copies are often of poor quality, having been taken with camcorders inside theaters. Consumers are also disadvantaged in the long-term by piracy as the result of the absence of remuneration given to authors and performers by pirates, and of the misappropriation of the economic returns to publishers and producers. This diversion of economic rewards from authors and their business partners to parties removes the incentive to the investment of time, effort, skill and resources in the creation of new works.

Since piracy is a clandestine activity, the profits derived by pirates are not subject to tax collection. Amongst the adverse consequences is the diminution in governmental

revenues leading to a reduction in the amount of government financial sponsorship available for the arts, as the level of such subsidies may in part be determined by the contribution made to the government budget through taxation derived from the distribution or sale of works subject to copyright protection.

Piracy can be seen to have detrimental effects, therefore, on each of the elements that make up the copyright system. In consequence, piracy threatens to diminish the evolution and development of national cultural identity which the copyright system is designed to promote.

Lebanon also witnessed a *few* positive court results last year. In July 2003, 41 cable pirates were sentenced, for the first time in history. The sentences included no jail time, but the fines ranged from \$4,533 to \$9,335, depending on the extent of the piracy. In August 2003, the first injunction was issued against seven cable pirates in response to requests brought by Showtime and Arab Radio and Television. A fine of \$333 per day was imposed on anyone that violated the injunction.<sup>60</sup>

### **3. Anti-piracy: challenges, suggested remedies**

An effective anti-piracy campaign needs all-out support by the copyright holders, governments across the globe, the legislation but most importantly a commitment from an average computer user. The owners of the proprietary software should play an active role with governments to focus on piracy crackdowns. The complex nature

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<sup>60</sup> **The Daily Star** Wednesday, April 21, 2004

of the problem becomes further complicated because of the difference between the laws in different countries and the lack of legislation and of implementation.

Particular, the Lebanese government should introduce effective control over optical discs, the registration of locations engaging in the commercial duplication of optical discs onto recordable media (CD-R “burning”) and the tracking of the movement of optical disc production equipment, raw materials, and production parts. Moreover, the Lebanese government should first, stress the compulsory use of identification codes, so it can successfully track the locations of production, promote inspection authority to licensed plants and search and seizure authority as to all premises; and finally adopt remedies, including revocation of licenses and civil, administrative, and criminal penalties for violations of the Law.

Internationally, the Business Software Alliance (BSA) is the foremost organization dedicated to promoting a safe and legal online world. It is the voice of the world’s software and internet industries speaking to governments and consumers in the international marketplace. BSA members represent the fastest growing industries in the world. BSA educates computer users on software copyrights and cyber security; advocates public policy that fosters innovation and expands trade opportunities; and fight software piracy. Established in 1988, the BSA has offices and programs in 65 countries. BSA has been a pioneer in anti-piracy campaigns in various countries. A small account from an incident in Kuwait recently is presented for illustration.<sup>61</sup>

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<sup>61</sup> Review article: Software piracy- a challenge to E-world.  
Sundeep Bhasin  
GSEC Practical Assignment (version 1.4b) Oct 16, 2002.

The Hawalli computer district<sup>62</sup> is the scene of action initiated against software pirates by the BSA. The pirates erected iron gates to turn the factory into a safe-haven for the “workers” inside. The Police and Ministry of Information officials in this district worked with the fire department to cut through iron security doors. In the panic of the raid, two members of the gang attempted to jump from first floor windows to try to escape, but they found the police waiting for them on the ground. The chaotic scene was certainly in contrast with the amount of groundwork that had gone into organizing the raid that began before daybreak. The meticulous planning and the fierce implementation gave the impression that it is equivalent to a “war”.

It is this war that BSA is slowly winning, in the Middle East at least. Piracy rates are down from 85% to 57% in 2000 over a period of six years, as a percentage of all *installed software*.<sup>63</sup> The Middle East moved from being the second worst region for piracy in the world to the third as a result in the year 2000. The BSA officials acknowledge the improvements, but believe that the job has only just begun. Illegal copied applications still costs the software industry \$240 million in the Middle East alone. The figures are a big motivation for the organization. With the considerable success achieved in last few years the officials are prepared for the arduous task ahead of them. They believe that they can better the expectation if they work closely on educating the user as well as the respective governments in order to make a big difference.

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<sup>62</sup> The Hawalli computer district is a region in Kuwait dealing with the technological issues.

<sup>63</sup> While the piracy problem is still increasing in the field of optical discs (CDs, VCDs, DVDs, DVDs, CD-ROMs, “burned” CD-Rs, etc.)



Lebanon, Qatar and Bahrain rank in the top ten of the worst offenders in the world. There are at least six countries in the region figuring in the top twenty worst offenders in the world, which explains the focus of attention on the part of the BSA. Raids have been directed against both vendors and users of illegal software in almost all territories in the region. The Hawalli raid resulted in over 35,000 CD counterfeit software, as well as catalogues and unlicensed software. In Saudi Arabia in November 2000, the authorities emphasized their resolve to work against the menace by running a steamroller over a haul of 300,000 pirate CDs, right in front of computer resellers in the Olaya district of Riyadh.

The following remedies and their positive impact on the existing piracy problem are being discussed:

#### **4. Encourage the use of open source software products**

Access to source code will encourage and promote local capacities for software modification and re-distribution. It promotes an environment for technical and systems development, as well as the ability to learn, innovate and invent, while stimulating the local software industry. More importantly it promotes independence from foreign software companies and reduces the outflow of funds from the country. For instance, a couple of hundred thousand copies of Linux have been distributed across a poor country like India, through local popular computer magazines, at a price of just \$2. That includes both the cost of a slick magazine and a CD. This software with no licensing issue can be legally copied across as many computers as needed. Linux may not yet be ready to replace the proprietary software on desktops

but has already penetrated on the back end servers of all major companies in the US. The change is beginning slowly but surely. The e-governance initiatives of various countries in the world are starting to get tied up to the open source software in the market. The cost alone is not the issue for the idea of openness and sharing opens new horizons in the present software industry. The displacement of the proprietary systems with commodity software and hardware has been resisted due to lack of security and the access times issues. The inability to emulate that success on desktops and workstation lies in the lack of adequate technical skills of the end user. Besides, the widespread predominance of “pirated” versions of proprietary operating systems makes innovation and study of options a low-priority. It is easy to recommend use of open software to save big money and to address the menace of the piracy, but on the ground it takes time to get started.

There have been small but significant ventures around the world, especially around the Third World to encourage people to use the open source software. There has been an earnest attempt to lower the costs of computer software by moving over to open source software. The initial costs of setting up and training people has to be viewed as an additional cost, but considering the total cost of ownership, the open source software is making a steady progress into must ventures.

#### **5. Securing hardware alongside the software**

Software alone cannot stop digital piracy; only a totally secured infrastructure has any chance of eliminating the problem. The recommendations come as opposition

builds against a proposed bill that would force hardware to add anticopying features to MP3 players and other devices. Although legislators and device makers both see a need for a hardware solution to securing digital content, the groups are at odds over the Government's efforts to regulate such technology. Every single device needs to be secured for digital content protection to work, according to researchers studying watermarking and security technologies. Some of the content markers are already adding bugs to music and game CDs so that they cannot be directly copied into unlicensed versions. The technology would work against domestic set-ups by teenagers and college students to copy content but to be able to work against the giant pirates a unanimous voice need to be expressed in terms of securing the hardware to contain piracy.

#### **6. Differentially pricing the software**

Some suggest that software should be priced at differential levels, keeping the dollar-earning power of different countries' citizens. Just as books originally published in the US, for instance, are published and priced at as little as one-sixth the cost when reprinted in south Asia.

This could compensate for the cost that exists in the various parts in the world.

In fact, already compilation CD-ROMs (with thousands of dollars worth of software) sell on the streets of Lebanon for US \$ 10. Meanwhile, book piracy in Lebanon which took root during the years of civil unrest, is a net-export business. Total losses

to the US copyright-based industries in Lebanon were more than US \$15 million in 2000.

Therefore, lower costs in these countries would encourage people to prefer legal software. This could prove to be a big step towards fighting piracy. The utility of this measure would be limited because of the spread of software through internet. However, it will reduce the piracy problem in regions of the world where the problem is at its worst (Third World).

### **7. Educate the user**

The need to spread user awareness is of utmost importance. The users must be made to understand that using pirated software is just like shoplifting. The end user needs to know the impact that piracy has on companies and the economy in general and education would help them realize that it is indeed a grave situation. The Government needs to step in with the legislation and strict implementation of copyright laws for this to be effective. The Government needs to strengthen the legal procedures dealing with piracy and also lend its support for the organizations working against this menace. The users need to be educated about the fact that the software developers will not invest in a market where their products are pirated and this refusal could be a substantial hindrance to the growth of the IT industry of the country.

In addition, while all these efforts are necessary to combat piracy, the main issue remains the cost. Lifting Customs duties on all computer software has helped reduce

the price of design, educational and game software by around 30%. Some games priced at \$80 are now around \$50. Applied technology tools such as AutoCAD 2001 went down from \$45, 00 to \$38, 00. But more is needed on the part of software producers. Microsoft for example offers a 90% discount on it software to colleges and universities (pricing a typical software at \$100 rather than \$800)<sup>64</sup>; but keeps an eye for open pirates disguised as students.

Finally, offering software at competitive prices will help fighting piracy, as the gap between copies and original version is reduced.

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<sup>64</sup> Article: An arm and a bootleg  
Executive, April 2001 number 24

## Chapter 5: Conclusion, Suggestions and Reflections

Despite some critical articles, the Lebanese Copyright Law does comply with international requirements.

Indeed the study of this law has revealed that the major deficiency remains in the tenor of article 25 which permits the copying of a work, without the consent of the author, for educational purposes and others...

We hope that modification of said article 25 occurs in the near future so that Lebanon will be able to join the WTO.

Furthermore, it is undeniable that another problem facing the Law is its enforcement. Indeed, observers have noticed that neither the US nor Europe are willing to accept Lebanon in any future trade agreements should the government fail to remedy copyright violation.

Moreover, in October 22, 2004, the United States warned that Lebanon may no longer enjoy tax exemption benefits on Lebanese-made products exported to the US if the government fails to enforce the Intellectual Property laws soon.<sup>65</sup>

“The International Intellectual Property Alliance has given the Lebanese government until the month of November [2004] to improve the copyrights violations. Failing to accomplish this task will compel the US government to lift the customs exemptions on Lebanese made goods,” US ambassador Jeffrey Feltman told reporters in Beirut.

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<sup>65</sup> **The Daily Star** *US warns tax exemption on Lebanese exports may end  
America insists Beirut implement copyright laws*  
By Osama Habib  
Saturday, October 23, 2004

“I am not sure if the US will agree to give Lebanon more time to implement the copyright,” he added.

The failure of the government to stamp out copyright violations may decrease the chances of Lebanon joining the WTO in 2005.

Despite measures to curb copyright violations, , according to all IT organizations, Lebanon still ranks among the 10 countries globally that provide the worst protection for intellectual property rights.

There is no doubt that a strong copyright enforcement regime begins with a transparent, consistent system of laws. To be effective, this legal framework must be implemented by knowledgeable staff and, supported by adequate resources.

This would be the primary responsibility of the IPPA, with its expertise and its unique role in implementing the Copyright Law, in order to foster an environment in Lebanon which favors creativity, innovation, scholarship and the arts.

Furthermore, if Lebanon plans to keep the trade benefits it currently enjoys, its Government needs to increase and speed up its actions against piracy. Cable piracy is one of the more serious issues that the government has to deal with; according to the US embassy 1.000 illegal cable operators are pirating all satellite and terrestrial television stations in Lebanon.

“Nine out of 10 households in Lebanon are subscribing to illegal cable. I am surprised that the Government is still not doing anything about it,” Feltman said on October 21, 2004.<sup>66</sup>

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<sup>66</sup> **The Daily Star** *US warns tax exemption on Lebanese exports may end America insists Beirut implement copyright laws*

In fact, there are an estimated 1,300 cable operators, serving over 50% of the Lebanese population. These operators retransmit domestic and foreign terrestrial and satellite programming without authorization to their subscribers (estimated to number about 460,000) for an average monthly fee of US \$10.00. Each cable operator retransmits an average of 40 to 50 different television channels. Therefore, the Lebanese Government should first empower the adjudicated bodies to increase raids against those who own these cables and transmit these programs to subscribers. The Lebanese will not easily accept, the interruption of their subscription, as they spend most of their free time in front of their TV, but on the other hand, facing the hard economic situation that Lebanon is facing right now, they cannot afford expensive subscription.<sup>67</sup> That is why the Lebanese government should make a compromise with the owners of these channels, by protecting their rights and increasing raids against the cable pirates and offering people lower prices for their subscription with the real owner of the channel chosen.

Fighting against piracy will mean a long struggle and the Lebanese Government should make this issue one of its outmost priorities. Practically, its endeavors would have the effect of reducing piracy in practice. Simply passing legislation is not enough, but applying practical measures to reduce piracy would have the following benefits:

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By Osama Habib

Saturday, October 23, 2004

<sup>67</sup> For example, in the US, the subscription to the Lebanese broadcast corporation LBC cost the subscribers \$30, which is also the cost for the subscription in any channel.



Entrepreneurs would benefit from new opportunities for innovations,

The workers would benefit from new jobs that pay higher wages,

The consumers would benefit from new revenues for needed services.

Continuous efforts will be required to ensure that such legal changes are enforced.

Appropriate empowerment of administrative and enforcement institutions are an important step to forward. The real protection of industrial property rights requires the involvement of an industrial property office enabled to administer patent, industrial design and trademark rights, including registration, compulsory licensing, and rulemaking. Likewise, a Copyright Office should eventually be empowered to protect the rights of copyright and neighboring rights, including receiving deposits, and to enforce compulsory licensing. In this case administrative decision should be appealable to independent appellate bodies. An effective, non-discriminatory and transparent judicial system is necessary for intellectual property holder be able to enforce their rights promptly. On the international level an appropriately empowered agency is crucial for enforcement purposes.

Workshops examining WTO requirements are useful for local legislators and other regulating bodies related thereof. Seminars directed to assist private sectors are equally important, as public awareness through campaigns explaining general rights and liabilities involving copyright.

Finally, the hope is that this new Copyright Law will help to above all encourage, foreign investment in Lebanon, open the door to technology transfer, and ultimately increase International confidence in Lebanon as the country tries to regain its pre-war status to emerge as a leading center in the Middle East. The key aim of the official

economic strategy is to render Lebanon the ideal location for commercial activity in the region

Most importantly, Lebanon is expected to play a critical intersection role between the Euro-Mediterranean free trade area and a greater Arab free trade area, thereby recapturing its role as the pre-eminent trade hub in the region.

## **Bibliography**

### **1. Books**

- Copyright and a democratic civil society  
Netanel, Neil Weinstock  
(1996) The Yale Law Journal; Nov, pg 283
- Intellectual property reading material  
(1998) WIPO publication n°. 476, second édition
- Propriete intellectuelle et artistique et droits voisins  
(1999) 9ème édition Claude Colombet  
Dalloz
- (2000) WIPO Worldwide Academy, collection of documents on  
intellectual property , Geneva, 2000
- Propriete Litteraire et Artistique  
Editions Juridiques Sader  
(2001) 1<sup>ere</sup> edition

### **2. Official documents**

- WIPO glossary of terms of the law copyright and neighboring rights  
(1980) Published by the WIPO Geneva
- Lebanese 1924 copyright law (no. 2385 of January 17, 1924)
- Law of the protection of literary and artistic property (no. 75 of April 3,  
1999)

### 3. Diaries

- La propriété intellectuelle et artistique  
Derniers développements e droit libanais  
Micheline Ferran  
(2002)Accomex Juillet/aout n° 46

### 4. Conferences

- WIPO-ESCWA Arab regional conference on recent developments in the field of intellectual property  
Beirut, May 5 and 6 2003.
- Copyright law in Lebanon: an overview  
(2002) By Craig Blakely, December

N.P ٢٠٠٢ عموميات – محاضرة في نقابة المحامين – وليد ناصر

### 5. Magazines

- Business week:  
European edition, February 10, 2003  
Cisco: making a federal case out of it, it's suing a rising Chinese rival, alleging "brazing" piracy.
- Propriétés intellectuelles  
Iрпи/ institut de recherche en propriété intellectuelle  
Henry desbois  
(2002) N° 2, janvier  
(2002) N° 3, avril  
(2002) N° 4, juillet  
(2002) N° 5, octobre  
(2003) N° 6, janvier

(2003) N° 7, avril

## **6. Jurisprudence**

7-06-2002 Unique judge of criminal matters in the court of Beirut  
7-06-2003 Unique judge of criminal matters in the court of Beirut

## **7. Newspapers**

- Executive April 2001 n°24  
An arm and a bootleg
- L'Orient le Jour 11/06/2002 droits d'auteur  
La contrefaçon et programmes informatiques en baisse au proche-orient
- The Daily Star Wednesday, April 21, 2004  
Ministry moves to improve protection of intellectual property rights  
Effective action needs to be taken against infringements.
- The Daily Star Saturday, October 23, 2004  
US warms tax exemption on Lebanese exports may end  
America insists Beirut implement copyright laws  
By Osama Habib

- الديار: الاحد ٤ ا نيسان ٢٠٠٢  
لأن لبنان لم يبق له الا الملكية الأدبية والفكرية  
القاضي شعيتو يقضي بحبس المدعى عليه شهرا دون وقف التنفيذ
- المنقير: ١٣-٦٠-٢٠٠٢  
منتجو و موزعو الموسيقى يشكون القرصنة اللبنانية

## **8. Internet applications**

- Piracy law in Lebanon effective June 14<sup>th</sup> 1999  
Abdullah & Walid Nasser, law offices
- IFPI/ representing the recording industry worldwide  
Record industry calls on Lebanese PM to set up action against music piracy  
July 7, 2003
- Doc: Lebanon 301 96  
Excerpt from the IIPA special 301 recommendations, February 20, 1996
- <http://www.wto.org/english/trips>  
Doc: the TRIPS agreement contains references to the provisions of certain  
pre-existing intellectual property conventions.

## LEBANON

**Law on the Protection of Literary and Artistic Property\***  
**(No. 75 of April 3, 1999)**

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**Chapter I**  
**Definitions**

1. For the purpose of applying the provisions of this Law, the meaning of the terms and expressions hereinafter shall be as follows, unless otherwise indicated in the context. These definitions apply also to related rights.

“Performance of work” means the execution of a work through exhibition, playing music, reciting, narrating, acting, dancing or any other means whether directly or through any means or device.

“Public performance” means a performance which is given in a place or places where the number of persons present exceeds the members of one family and their direct acquaintances.

“Broadcasting” means the transmission of the work for public reception by wireless means including transmission by satellite.

“Computer program” means a set of orders expressed in words or symbols or in any other form which when entered into a matter readable by a computer shall enable the computer to perform or execute a certain task or give a certain result.

“Phonogram/sound recording” means every fixation by any physical means of the sounds of a performance or of other sounds, whether resulting from the performance of a work or not, other than a fixation incorporated in an audiovisual work.

“Reprographic reproduction” means making copies from the original of a work by means other than printing, such as photocopying, and includes enlarged or reduced copies of the work.

“Related rights” means the rights that performers, producers of phonograms, television and radio broadcasting organizations and publishing houses enjoy.

“Work” means every work within the meaning of Articles 2 and 3 of this Law.

“Collective work” means a work in which more than one natural person participates under the initiative and supervision of a natural person who, or legal entity which, undertakes to publish it under his/its own name.

“Audiovisual work” means every work consisting of a set of consecutive images related to each other, whether accompanied by sound or not, and that gives the impression of motion if displayed, broadcast or transmitted with special devices.

“Work of joint authorship” means every work created by more than one author on condition that the said work does not constitute a collective work.

“Producer of sound recording/phonogram or audiovisual work” means the natural person who, or legal entity which, takes the initiative and responsibility for producing the audiovisual work or sound recording/phonogram.

“Author” means the natural person who creates a certain work.

“Reproduction” means making one or more copies of any work by any means or in any form, including a permanent or temporary recording on phonogram records, tapes, disks, electronic memory, and this also includes issuing a copy in two dimensions of a three-dimensional work, or a copy in three dimensions of a two-dimensional work.

“Copy” means the product of any copying, recording, printing, or photocopying of the original work.

“Publication” means making copies of the work or of the sound recording/phonogram available to the public in reasonable quantities with the consent of the author or the producer of the sound recording/phonogram, by means of selling, renting, or any other means of property transfer or acquisition of a copy of the work or the sound recording/phonogram or of the right to use them. The word “publication” also means making copies of the work or sound recording/phonogram available to the public by any electronic means.

The performance of a dramatic, dramatico-musical, cinematographic or musical work, the public recitation of a literary work, the communication by wire or the broadcasting of artistic or literary works, the exhibition of a work of art and the construction of a work of architecture shall not be considered publication.

A sound recording/phonogram is not considered published if received by any device, or means or if broadcast.



“Communication to the public” means making the work available to the public by wire or wireless transmission of sounds and/or images, in such a way as to allow the public to hear or view the work at a distance from the broadcasting center.

This includes making the work available to the public by wire or wireless means (like the internet) in such a way that every person may access it from a place and at a time chosen by them.

## **Chapter II Protected Works**

**2.** The protection of this Law shall apply to every production of the human spirit be it written, pictorial, sculptural, manuscript or oral, regardless of its value, importance or purpose and the mode or form of its expression.

The protection of this Law shall apply, among other works, to:

- books, archives, pamphlets, publications, printed material and other literary, scientific and artistic writings;
- lectures, addresses and other oral works;
- audiovisual works and photographs;
- musical compositions with or without words;
- dramatic or dramatico-musical works;
- choreographic works and pantomimes;
- drawings, sculpture, engraving, ornamentation, weaving and lithography;
- illustrations and drawings related to architecture;
- computer programs whatever their language and including preliminary work;
- maps, plans, sketches and three-dimensional works relative to geography, topography, architecture or science;
- any kind of plastic art work whether intended for industry or not.

**3.** The following derivative works shall be subject to the provisions of this Law and shall be protected as original works without prejudice to the rights in the original work:

- translations, adaptations, transformations and arrangements of music;
- collections of literary or artistic works and compilations of data, whether in machine-readable or other form, provided that they are authorized by the copyright holder or his public or private successors and that by reason of the selection and arrangement of their contents they constitute intellectual creations.

**4.** The following shall be excluded from the protection provided by this Law:

- daily news;

- laws, legislative decrees, decrees and decisions issued by all public authorities and official translations thereof;
- judicial decisions of all kinds and official translations thereof;
- speeches delivered in public assemblies and meetings. The authors of speeches and presentations shall enjoy the sole right of collecting and publishing such lectures and presentations;
- ideas, data and abstract scientific facts;
- artistic folkloric works of all kinds. However, works inspired by folklore shall enjoy protection.

### **Chapter III** **Copyright Holder and Terms of Protection**

5. The author of any artistic or literary work shall, as a result of the creation of the work, have an absolute property right over his work and shall reserve all his rights without having to follow any formalities.

6. In the case of a joint work in which each contribution consists of an integral part of the work as a whole, all the contributors shall be considered coauthors and co-owners of copyright in the work. However, if it is possible to distinguish the contribution of each author from the others, each of the joint authors shall be considered the author of his own contribution.

In a joint work, none of the coauthors may, in the absence of any written agreement to the contrary, exercise copyright without the consent of the other authors.

7. In the case of a collective work, the natural person who, or legal entity which, took the initiative to create the work and supervise its execution shall, in the absence of any agreement to the contrary, be considered the copyright holder.

8. In the case of a work created by natural persons working under a work contract for a natural person or legal entity in the course of performing their duties or professional obligations, the employer shall, in the absence of any agreement to the contrary, be the copyright holder and shall exercise the rights provided for in Article 15 of this Law.

9. In the case of an audiovisual work, the producer shall, in the absence of any agreement to the contrary, be considered the copyright holder.

10. In the case of anonymous and pseudonymous works, the natural person who, or legal entity which, published the work shall be considered the author. However should the identity of the author be revealed, he himself shall exercise these rights.

11. The person whose name is shown on a literary or artistic work in the commonly known way shall, unless proved otherwise, be considered the author.

#### **Chapter IV** **Criteria of Eligibility for Protection**

**12.** The protection of this Law shall apply to the artistic and literary works of the following:

- Lebanese authors, wherever they reside;
- non-Lebanese authors who are nationals of, or resident in, a State party to the Berne Convention for the Protection of Literary and Artistic Works or the Universal Copyright Convention;
- authors who are nationals of any State that is a member of the Arab League but which is not party to the above-mentioned Conventions, provided reciprocal treatment is applied;
- producers of audiovisual works who have their headquarters or habitual residence in Lebanon or in any State party to the Berne Convention for the Protection of Literary and Artistic Works or the Universal Copyright Convention.

**13.** The protection of this Law shall apply to:

- literary and artistic works first published in Lebanon;
- literary and artistic works first published in a State party to one of the above-mentioned Conventions;
- literary and artistic works first published outside Lebanon and outside the States party to one of the above-mentioned Conventions, provided that they are published in Lebanon or in a State party to the above-mentioned Conventions within 30 days of their publication in the other country.

#### **Chapter V** **Rights Enjoyed by Copyright Holders**

**14.** The copyright holder shall enjoy economic and moral rights.

**15.** The copyright holder shall have the exclusive right to exploit the work commercially and, accordingly, shall have the right to authorize or prohibit the following:

- any copying, printing, recording and reproduction of the work in any manner or form including photography, cinematography, sound or visual recordings of any kind or any other form;
- any translation, adaptation, alteration, transformation, summarizing, reworking of the work or rearrangement of the music;
- the sale, distribution or rental of the work;
- the importation of copies of the work manufactured abroad;
- the public performance of the work;

— communication to the public of the work by wire or wireless means, whether through hertzian waves or the like or through coded or uncoded satellites, including the rebroadcast of normal television or radio broadcasts or satellite transmissions by any means of diffusion of sounds and images.

16. The economic rights of the author shall be considered as movable rights and may be transferred in whole or in part.

17. Any contract for the exploitation or assignment of economic rights shall, whatever its subject, be drawn up in writing, otherwise it shall entail nullity of the contract. It shall set out in detail the rights covered by the contract and indicate the time and location. The contract shall also require that the author gets a percentage of the exploitation revenues and assignment proceeds. If such a contract does not set a time limit, it shall be valid for 10 years only from the date of signature of the contract.

18. The assignment in whole of future works shall be considered as void.

19. The assignment by the author of any of his rights must be limited in all cases to that right only and copyright contracts shall be construed in a restrictive manner.

20. The author and composer of a song shall have equal rights in that work, unless agreed otherwise.

21. Independently of the rights provided for in the previous Article and even after the assignment of the said rights, the author shall enjoy the following moral rights:

— the right to disclose the work and to determine the way and method of such disclosure;

— the right to claim authorship of the work and to have his name mentioned on every copy of the work each time the work is used in public;

— the right to use a pseudonym or to remain anonymous;

— the right to object to any distortion, mutilation or modification of the work which would be prejudicial to his honor, reputation, fame or artistic, literary or scientific position;

— the right to rescind contracts for the assignment of economic rights even after their publication if rescission is necessary to safeguard his person and reputation or is due to a change in his beliefs or in the circumstances, provided that third parties are compensated for damage resulting from such rescission.

22. It shall not be permitted to assign or attach the moral rights of the author but the said rights may be transmitted by testamentary disposition or inheritance laws.

## **Chapter VI**

### **Exceptions**

23. Without prejudice to the provisions of Article 24 of this Law, any natural person may, for his personal and private use, copy, record or make a single copy of any work protected under this Law without the authorization or consent of the copyright holder and

without having to pay him any compensation, provided that the work has been legally published.

The use of a copy copied or reproduced inside a company or at any other work place shall not be considered as personal and private use.

**24.** The exception provided for in the previous Article shall not apply if it is prejudicial to the other rights and interests of the copyright holder. In particular, it shall be prohibited to:

- execute an architectural work in the form of a complete or partial construction;
- copy, record or reproduce any work of which a limited number of original copies are published;
- reproduce the whole or a significant part of a book;
- record or transmit compilations of data of all kinds;
- record or copy computer programs unless the record or copy is made by the person authorized by the copyright holder to use the program and for the purpose of making a single copy for use in the case of loss or damage of the original copy.

**25.** Non-profit-making educational institutions, universities and public libraries may, without the authorization of the author and without obligation to pay him compensation, reproduce a limited number of computer programs for the purpose of lending them free of charge to students and university people, provided that they possess at least one original copy of the work and provided that the Ministry of Education, the Ministry of Culture and Higher Education and the Ministry of Technical and Vocational Education subsequently issue decrees determining the copying mechanism, the categories of computer programs that may be copied and the number of copies allowed. Students may make one copy for their personal use.

It shall also be permitted, without the authorization of the author and without obligation to pay him compensation, to use a limited part of any legally published work for purposes of criticism, argumentation or citation or for an educational purpose, provided that the part used does not exceed what is necessary and customary. However, the name of the author and the source shall always be indicated, if the name of the author is included in the work.

**26.** It shall be permitted, without the authorization of the author and without obligation to pay him compensation, to copy or reproduce articles published in newspapers and magazines or short excerpts of a work, provided that it is done solely for educational purposes and within the necessary limits of such purpose. If the names of the author(s) and the publisher appear on the original work, they shall be mentioned in each and every use of the copy of the article or work.

**27.** Non-profit-making public libraries may, without the authorization of the author and without obligation to pay him compensation, make an additional copy of a work to be used in case of loss or damage of the original work, provided that they possess at least one copy of the original work.

**28.** It shall be permitted, by decision of the Minister of Culture and Higher Education, without the authorization of the author and without obligation to pay him compensation, to

copy, reproduce or record an audiovisual work of special artistic value in order to keep it in the Ministry's archives, in case the copyright holder unfairly refuses to authorize the making of the said copy.

**29.** It shall be permitted, without the authorization of the author and without obligation to pay him compensation, to copy, reproduce or record a specific work for use in judicial or administrative proceedings and within the limits required by such proceedings.

**30.** The media shall be permitted, without the authorization of the author, without obligation to pay compensation to the author, and within the limits of fair practice, to use short excerpts of works that are displayed or heard during current events in the course of reporting such events in the media, provided that the name of the author and the source are mentioned.

**31.** The media shall be permitted, without the authorization of the author and without obligation to pay him compensation, to publish pictures of architectural works, visual artistic works, photographic works or works of applied art, provided that such works are available in places open to the public.

**32.** It shall be permitted, without the authorization of the author and without obligation to pay him compensation, to display or perform a work in public during the following occasions:

- official ceremonies within the limits required for such ceremonies;
- activities carried out by educational institutions during which teachers or students use the work, provided that the audience is limited to the teachers, students, students' parents and persons directly involved in the activities of the said educational institution.

**33.** It shall be permitted, without the authorization of the author and without obligation to pay him compensation, to display an artistic work in museums or in exhibitions organized inside museums provided that the museum owns the tangible material that contains the work and that such display is not prejudicial to the legal interests of the author.

**34.** It shall be permitted, without the authorization of the author and without obligation to pay him compensation, to copy or reproduce an artistic work for the purpose of publishing it in catalogues intended to facilitate the sale of the work, provided that such copying or reproduction is not prejudicial to the legal interests of the author.

## **Chapter VII Related Rights**

**35.** Producers of sound recordings, radio and television broadcasting organizations, publishing houses and performers such as actors, musicians, singers, members of musical groups, dancers, artists of puppet shows and circus artists shall be considered as holders of related rights.

**36.** Producers of sound recordings shall enjoy protection in the following cases:

- (a) if the producer of the sound recording is Lebanese or a national of a State party to the Rome Convention 1961—International Convention for the Protection of Performers,

Producers of Phonograms and Broadcasting Organizations, done at Rome on October 26, 1961;

(b) if the first fixation of sound is undertaken in a State party to the above-mentioned Convention;

(c) if the sound recording is first published in a State party to the above-mentioned Convention. If the sound recording is first published in a country that is not party to the Rome Convention and published afterwards, within 30 days of the first publication, in a State that is party to the said Convention, the said sound recording shall be considered as first published in the State party to the Convention.

37. Performers shall enjoy protection in the following cases:

(a) when their performance is undertaken in Lebanon or in a State party to the Rome Convention;

(b) when their performance is fixed in a sound recording protected under Article 36 of this Law;

(c) when their unfixed performance is fixed in a sound recording through a program protected under Article 38 of this Law.

38. Broadcasting organizations shall enjoy protection in the following two cases:

(a) if the headquarters of the organization is in Lebanon or in a State party to the Rome Convention;

(b) if the program is broadcast via a transmission device in Lebanon or in a State party to the Rome Convention.

39. Without prejudice to the provisions of Article 15 of this Law, performers shall have the right to authorize or prohibit the following:

- the broadcasting or communication to the public of their unfixed performance unless the broadcasting or communication is a rebroadcast of a previously authorized broadcast;
- the fixation or recording of their unfixed performance on any tangible material;
- the copying, sale or rental of any recordings containing an unauthorized fixation of their performance;

40. Performers participating in a joint work or show shall elect by relative majority one person to represent them in the exercise of their rights stated in Article 39 of this Law.

41. Producers, who are authorized by the performers to undertake the first fixation of an audiovisual work on any tangible matter, shall have the exclusive right to copy, distribute, sell and rent the audiovisual work they have produced and communicate it to the public.

42. The radio and television companies, establishments and corporations referred to in Article 38 of this Law, shall have the right to authorize or prohibit the following:

- the rebroadcasting of their programs by whatever means;

— the showing of their television programs in places where entrance is permitted upon payment of an entrance fee;

— the recording of their programs on tangible material for commercial purposes;

— the copying of unauthorized recordings of their radio and television programs.

**43.** Producers of sound recordings shall have the right to authorize or prohibit direct and indirect copying as well as the rental of such recordings for commercial purposes.

**44.** Performers shall have the right, during their lifetime, to claim authorship of, and to object to any alteration or modification of, their performance. This right shall pass to the heirs of the performer after his death.

**45.** Publishers of written or printed works shall have the right to authorize or prohibit the copying of such works by means of photocopying or commercial exploitation.

**46.** Any agreement on related rights shall be concluded in writing.

**47.** The exceptions set forth in Articles 23 to 34 of this Law shall apply to the rights provided for in Articles 35 to 45 of this Law.

**48.** The protection of related rights shall not affect any of the rights in respect of original and derivative works protected under this Law. Any interpretation of any of the rights granted under this Chapter shall not affect the rights of the original author.

### **Chapter VIII** **Terms of Protection**

**49.** The term of protection granted under this Law to the economic rights of the author, shall be the life of the author and 50 years after his death, to be computed from the end of the year in which the death has occurred.

**50.** In the case of a work of joint authorship, the term of protection shall be the life of the joint authors and 50 years after the death of the last joint author, to be computed from the end of the year in which the death has occurred. Should one of the authors die without leaving heirs, his share shall pass to the co-authors or to their heirs, unless stated otherwise.

**51.** In the case of collective and audiovisual works, the term of protection shall be 50 years to be computed from the end of the year in which the work has been made available to the public or, failing such event, 50 years from the making of such work, to be computed from the end of the year in which the work has been completed.

**52.** In the case of anonymous or pseudonymous works, the term of protection shall expire 50 years after the work has been lawfully made available to the public.

However, if the pseudonym adopted by the author leaves no doubt as to his identity, or if the identity of the author of an anonymous or pseudonymous work is disclosed before the expiration of the 50-year period starting from the end of the year in which the work was lawfully made available to the public, the provisions of Article 49 of this Law shall apply. In the case of posthumous works or works published in the name of a legal person, the term of protection shall be 50 years to be computed from the end of the year in which the work was published.



53. All moral rights of authors or performers shall enjoy perpetual protection that shall not be subject to prescription. They shall be transmitted to third parties by testamentary disposition or under inheritance laws.

54. All economic related rights of performers shall enjoy protection for a period of 50 years to be computed from the end of the year in which the performance has been carried out.

55. The term of protection granted to producers of sound recordings shall be 50 years, to be computed from the end of the year in which the first fixation of sound on tangible material has taken place.

56. The term of protection granted to broadcasting organizations shall be 50 years, to be computed from the end of the year in which the broadcasting of their programs has taken place.

57. The term of protection granted to publishing houses shall be 50 years, to be computed from the end of the year in which the first publication has taken place.

### **Chapter IX** **Collective Management Associations and Companies**

58. Authors and holders of related rights or their universal or particular successors may assign the management of their rights and the collection, in whole or in part, of royalties due to civil associations or companies formed among them.

59. Assignment shall be made by way of a written power of attorney drafted before a notary public and explicitly stating all the rights the management of which are assigned to the association or company.

The power of attorney shall be limited in time and may include all or part of the present or future works of the author or the holder of related rights. If there is ground for doubt, all the works shall be considered as covered by the power of attorney.

60. Any association or company willing to undertake the collective management of rights must, before carrying out any activity, deposit with the Ministry of Culture and Higher Education a legal attestation certifying the constitution of the association according to the Law of Associations, or a certificate of registration of the company with the competent registrar, in addition to the following documents:

- a copy of the Articles of Association;
- the name and address of the director in charge;
- the number of authors and holders of related rights that have assigned the management of their rights and the collection of their royalties to the association or company;
- a copy of the proxies granted to the association or company by the authors, the holders of related rights or their universal or particular successors;
- the term of the proxies;
- the mode of distribution of the royalties collected;

— the annual budget of the association or company.

**61.** The associations or companies for the collective management of rights shall be subject to the authority and control of the Ministry of Culture and Higher Education and they shall provide the Ministry with all necessary records and account books for ministerial control.

**62.** Each association or company must appoint a certified accountant to audit its records and submit an annual report to the General Assembly. However, the association or company must obtain an annual report from another certified accountant.

**63.** Each association or company must hold at least one general assembly a year to vote on the report of the president, the financial reports, the balance sheet of the previous year and the budget of the following year.

**64.** Pursuant to the legislation regulating the legal profession, each association or company must appoint a lawyer from the Bar as its legal consultant.

**65.** If the association or company commits a serious infraction or in the event of a repetition of a legal or regulatory infraction, the Minister of Culture or Higher Education may refer the file to the public prosecutor for action.

**66.** The Council of Ministers shall, within three months of the publication of this Law in the official gazette and upon the recommendation of the Minister of Culture and Higher Education, issue a decree prescribing the mode of establishment and functioning of the said associations and companies and the manner in which the Ministry of Culture and Higher Education shall monitor their activities and establish violations.

**67.** The associations or companies for the collective management of rights shall have the following responsibilities:

— to arrange contracts with the parties using the work and to determine the royalties to be collected;

— to distribute the royalties collected among the eligible parties;

— to take all administrative, judicial, arbitral and amicable measures to protect the legitimate rights of their clients and to collect royalties due;

— to obtain from the users of the work all necessary information for the computation, collection and distribution of royalties.

**68.** The associations or companies for the collective management of rights shall not have the right to refuse to arrange contracts under Article 67 of this Law with the users of the works without a legitimate reason.

**69.** The user of the work must submit to the association or company a list of the exploitations that he has undertaken such as the copying, sale, rental or television or radio broadcasting of the work and he shall indicate the number of copies, the number of public displays of the work or the number of television or radio broadcasts.

70. Companies and associations shall not have the right to refuse to administer the rights of an author or collect the royalties owed to him without a legitimate reason.

71. Each company or association must submit an annual report to the authors that have empowered it to administer their rights and collect royalties owed to them so that the authors can express their opinions as to the amounts collected, the method of collection and distribution and other administrative issues. The association must take these comments into account when formulating or modifying its methods of collection and administration.

72. The authors, the holders of related rights and their representatives shall have the right to examine the accounts of the company or the association to which they are affiliated whenever they deem it necessary.

73. The authors and the holders of related rights which have empowered a specific association or company to administer their rights and collect their royalties must inform the association or the company in writing of the works they have published or those they intend to publish after the date on which they have authorized the company or the association to administer their rights and collect their royalties.

74. Collected amounts shall, at least once a year, be distributed among right holders in proportion to the actual use of their works.

75. The power of attorney may be cancelled by the author, the holder of related rights or the association or company provided that there is a legitimate reason for such cancellation and that the other party is served notice three months before the end of the year. The cancellation shall have effect as of the end of the year in which the other party has been served notice of the intention to cancel.

## **Chapter X**

### **Deposit**

76. Works, sound recordings, performances, and radio or television programs shall be deposited with the Intellectual Property Protection Office at the Ministry of Economy and Trade.

The deposit shall constitute a presumption as to the ownership by the depositor of the work, the sound recording, the performance or the radio or television program. Such presumption may be refuted by all available means.

77. Copyright holders, holders of related rights or their particular or universal successors who wish to make a deposit must submit to the Intellectual Property Protection Office an application signed by them or their agent containing the following information:

- the title and the type of work, sound recording, performance or radio or television program;
- the name, title and address of the author or the holder of related rights. If the author or the holder of related rights does not make the deposit personally, the foregoing information must be given in respect of the depositor as well;

— if the depositor is a person other than the author or the holder of related rights, the type of document on the basis of which the depositor has submitted the application for deposit;

— where necessary, the name and address of the person responsible for the physical execution of the work (the printer, the molder, etc.).

The application for deposit must be accompanied by:

(a) if the applicant is a person other than the author or the holder of related rights, a copy or a summary of the document on the basis of which the deposit is made (power of attorney, assignment, contract or agreement...);

(b) three copies of the work or the subject of the related right. In respect of pictures, oil paintings, water colors, statues, works of architecture or other works having only one original, a photographic or non photographic reproduction of the work in three dimensions shall be provided showing the shape and form of the work in whole and in detail.

78.—(1) The application for deposit shall not be accepted unless it is accompanied by the prescribed fee set out in this Article.

(2) The fees charged by the Intellectual Property Protection Office shall be as follows:

- deposit of a printed work, LBP 50,000;
- deposit of a motion picture, video film or sound recording, LBP 175,000;
- deposit of a daily or periodic publication, (for one year) LBP 75,000;
- deposit of a picture, drawing, map, post card, photograph or daily or periodic publication, (1 copy), LBP 25,000;
- deposit of any other material not mentioned above, LBP 50,000;
- recordation of a contract of deposit with the Office, LBP 50,000;
- facsimile copy of a certificate of registration, LBP 25,000.

79. The application for deposit shall be registered at the Intellectual Property Protection Office. A certificate shall be delivered to the applicant mentioning the information stated in the application and it shall be accompanied by one of the three copies deposited with the Office.

The certificate shall be dated, sealed and signed by the head of the said Office. The first certificate shall be granted free of charge and the Office shall charge the prescribed fee referred to in the previous Article for subsequent requested copies of this certificate.

80. Any contract concluded with regard to any work, sound recording, performance or radio or television program registered at the Intellectual Property Protection Office may also be recorded with the said Office.

## Chapter XI Provisional Measures, Damages and Sanctions

**81.** Where there is ground for suspecting an imminent infringement of copyright or a related right, the holder of these rights or his public or private successors, in particular the associations or companies for the collective administration of rights, shall have the right to take all necessary provisional measures to prevent such infringement.

For this purpose, the judge of expedited matters may take all decisions authorized by the law, in particular, ex-parte decisions, in order to ensure the protection of the right or the work that is likely to be infringed and all the other works owned by the author or the holder of related rights. The judge of expedited matters may impose coercive measures to enforce his decisions. In addition, the president of the competent court of first instance or the competent public prosecutor shall have the right to take the provisional measures referred to above.

**82.** The judge of expedited matters, the president of the court of first instance or the public prosecutor may temporarily seize material constituting evidence of an infringement of copyright or a related right and shall leave it in the custody of the defendant.

**83.** In case of infringement of copyright or a related right, the holders of these rights may have recourse to the competent judicial authority and seek the cessation of the infringement and the prevention of any future infringement.

**84.** Any person who infringes copyright or a related right shall be required to pay fair compensation to the right holder for the material or moral injury and damage incurred. The amount of such compensation shall be determined by the court based on the commercial value of the work, the damage and lost profit incurred by the right holder and the material profit realized by the infringer. The court may order the seizure of the subject matter in dispute and the equipment and devices used to commit the infringement.

**85.** Irrespective of whether the work has fallen into the public domain or not, shall be liable to imprisonment for a term varying from one month to three years and/or to a fine varying from LBP 5 to 50 million, any person who:

- fraudulently puts or instructs another person to put a false name on a literary or artistic work;
- fraudulently imitates the signature or the logo of the author with intent to mislead the buyer;
- knowingly imitates a literary or artistic work;
- knowingly sells, possesses, offers for sale or makes available an imitated or a plagiarized work.

The sanction shall be doubled in the event of a repetition of the offence.

**86.** Any person who, knowingly and with intent to make a profit, infringes or attempts to infringe copyright or related rights provided for in this Law shall be liable to imprisonment for a term varying from one month to three years and/or to a fine varying from LBP 5 to 50 million. The sanction shall be doubled in the event of a repetition of the offence.

The competent court may order the closure of the premises, the commercial establishment or the radio or television station that infringes copyright for a period varying

from one week to one month and the destruction of all unauthorized copies and all the equipment and the devices used to produce such copies. The court may also order that its decision be published in two local newspapers at the expense of the defendant.

The provisions of Article 200 and subsequent Articles of the Penal Code shall be taken into account when applying this Article.

**87.** Any person who manufactures or imports for purposes of sale or rental, offers for sale or rental, possesses for the purpose of sale or rental, sells, installs or rents any device, equipment or machine manufactured in whole or in part to receive illicitly any radio or television broadcast or transmission destined to that section of the public that receives the said broadcast or transmission on payment of a set fee, shall be liable to imprisonment for a term varying from one month to three years and/or to a fine varying from LBP 5 to 50 million. The sanction shall be doubled in the event of a subsequent offence.

**88.** Any person who arranges or facilitates for third parties the reception of the transmission or broadcast referred to in the previous Article shall be liable to imprisonment for a term varying from one month to three years and/or to a fine varying from LBP 5 to 50 million. The sanction shall be doubled in the event of a subsequent offence.

**89.** With regard to the foregoing violations, legal action may be instituted by the public prosecutor *ex officio* or at the request of the person suffering damage or the president of the Intellectual Property Protection Office.

**90.** The court shall communicate any judicial decision issued with regard to the foregoing infringements to the Intellectual Property Protection Office within 15 days of the date of the decision.

**91.** It shall be strictly prohibited to import, consign to a warehouse or a free zone or transit sound recordings, or works that are imitations of sound recordings or works enjoying legal protection in Lebanon. Such sound recordings and works shall be seized wherever they are found.

**92.** The persons mentioned below shall have authority to identify, inventory and sample suspect objects. These persons shall be: police and customs officers and employees of the Intellectual Property Protection Office sworn in to that effect. These employees shall perform their duties pursuant to an order or a mandate issued by the public prosecutor or the Intellectual Property Protection Office and they shall notify the Office of all violations of the provisions of this Law that come to their attention. Sworn-in employees of the Intellectual Property Protection Office shall have police powers with regard to the implementation of the provisions of this Law.

Suspect articles may be seized, inventoried and sampled wherever they are found. A report must be drawn up of all sampling and inventorying and it must contain the following information:

1. the name, surname, title and place of residence of the employee who has drawn up the report;

2. the authority that has issued the order and the date it was communicated to the employee;
3. the date, time and location of the operation;
4. the name, surname, nationality, place of residence and profession of the person on whose premises the operation was carried out;
5. a detailed list of the suspect articles stating their number, kind and specifications;
6. the signature of the person in whose possession the articles or goods were found and if he refuses to sign, his refusal shall be mentioned;
7. the signature of the officer who has drawn up the report.

The proprietor of the goods shall have the right to mention in the report all the information and reservations he deems necessary and to obtain copies of the report and inventory if an inventory has been drawn up separately. Civil action or penal proceedings must be filed with the competent court within 15 days of the date of the report otherwise the whole operation will be considered as void.

93. The court may, at the request of the plaintiff and before rendering its final judgment order the seizure of all or some of the articles stated in the report and inventory. In such case, the court may order the plaintiff to deposit with the court, prior to the seizure, a guarantee fixed by the court based on the value of the articles to be seized.

The order shall designate the employee mandated to carry out the seizure, the place where seized articles will be kept and the official receiver of such articles appointed by the court.

94. The officer who has carried out the seizure shall immediately draw up a report in two copies, one of which should be delivered to the person whose goods have been seized. The report shall be drawn up as prescribed in Article 92 and it shall be accompanied by an inventory of the articles seized. The person whose goods have been seized, shall sign both copies and if he refuses or fails to sign, his refusal or failure shall be mentioned in the space provided for the signature.

95. The person whose goods have been seized must be provided with the following documents:

1. the order of seizure;
2. the document that establishes the deposit of the guarantee with the court if the court orders the deposit of such guarantee;
3. the inventory of the articles seized;
4. the report of seizure.

96. If the Intellectual Property Protection Office carries out an investigation at the request of the person suffering damages, it shall charge him a LBP 100,000 fixed fee.

97. The judgment rendered with regard to the above-mentioned proceedings shall provide for the imposition of the following complementary penalties:

1. the judgment shall be posted at the places designated by the court and it shall be published at the expense of the defendant in two local newspapers designated by the court that has rendered the judgment;

2. if the losing party represents a newspaper, a magazine or a radio or television station, the judgment must be published in this newspaper, magazine or radio or television station in addition to the two newspapers mentioned above.

## **Chapter XII** **Transitional and Temporary Provisions**

**98.** All works, whether published or not, created before the entry into force of this Law, shall enjoy the period of protection prescribed in this Law provided that they have not fallen into the public domain by the effective date of this Law. The period of protection that has lapsed before the issuance of this Law shall be deducted from the period of protection provided for in this Law.

**99.** Any author, producer or publisher of any book or publication must send, free of charge, to the Ministry of Culture and Higher Education five copies of the said work.

**100.** Articles 137 to 180 inclusive of Decision No. 2385, dated January 17, 1924 (amended), and Articles 722 to 729 inclusive, of the Penal Code shall be repealed.

**101.** This law shall be published in the official gazette and it shall have effect two months after its publication.

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\* *Entry into force:* June 14, 1999.  
*Source:* English text communicated by the Lebanese authorities.  
*Note:* Editing by the International Bureau of WIPO.

\*\* Added by the International Bureau of WIPO.



**Republic of Lebanon**  
Ministry of Culture

The Minister

**Decision no. 16/2002**

Mechanisms for copying software by non-profit educational institutes,  
universities, and public libraries

The Minister of Culture and the Minister of Education and Higher  
Education,

In virtue of decree no. 4336 dated 26/10/2000 (constitution of the  
Government),

In virtue of law no 75 dated 3/4/1999 for the protection of arts and  
artistic property rights,

Upon the proposal of directors general of culture, education, higher  
education, and vocational and technical education,

Decide the following:

Article 1: The article 25 of law no. 75 dated 3/4/1999 related to the  
license to copy softwares on the part of non-profit educational  
institutions, universities, and public libraries holding one original copy,  
shall be applied when the following conditions are met:

- 1- The decision of copying a software upon the request of the relevant  
authority in non-profit educational institutions, universities, and public  
libraries, which comply with the provisions of article 25 of the above  
mentioned law should be issued.
- 2- The right to copy softwares should be limited to non-profit  
educational institutions, universities, and public libraries expressly  
mentioned in article 25 of the above mentioned law.
- 3- The software meant for copy should have a general cultural and  
educational character.
- 4- The number of the software copies made in virtue of article 25 should  
be put at the disposal of university students who are entitled to borrow  
them free of charge, knowing that one single copy is allowed to each  
educational institute, university and public library.
- 5- The copies should be at the disposal of duly registered students in the  
educational institute and the university, provided there is evidence of  
such registration.

- 6- The software copy of the non-profit public library should be at the disposal of duly registered students in non-profit educational institutions and universities, provided there is evidence of such registration.
- 7- The use of the borrowed copy should be limited to the non-profit educational institution and university campus, and to the rooms of the public library.
- 8- The copywriter should be informed of the number of software copies made and of the categories and number of students who will benefit from them.

Article 2: The present decision shall be issued and notified when appropriate.

Beirut 1/7/2002

Minister of Education and Higher Education  
Signature  
Abdel Rahim Mrad

Minister of Culture  
Signature  
Ghassan Salameh

Republic of Lebanon  
Ministry of Culture  
(Stamp)

**Lebanese Intellectual Property Regime: Advantages and Deficiencies with Respect to the Agreement on Trade-Related Aspects of Intellectual Property**

Area of Intellectual Property Rights and Relevant Law	Advantages of Existing/ Proposed Laws	Deficiencies in Existing/ Proposed Laws
<p><b>Copyrights and Neighboring Rights</b></p> <p><i>Protection of Copyright and Artistic Property Act of the Republic of Lebanon (1999)</i></p>	<p>Guarantees copyright protection without formalities</p> <p>Complies with national treatment and MFN requirements</p> <p>Includes software as protected subject matter (but see related comment in Deficiencies column)</p> <p>Generally protects copyrights and neighboring rights for adequate time periods</p> <p>Includes improved enforcement provisions</p>	<p>Includes overly restrictive provisions defining the scope of the law's applicability</p> <p>Permits unauthorized copying of software under certain circumstances*</p> <p>Excludes certain required exclusive rights of copyright</p> <p>Does not exclude procedures, methods of operation, and mathematical concepts from copyright protection</p> <p>Does not clearly protect compilations and collective works</p> <p>Inadequately defines and protects rights of performers and broadcasters</p> <p>Contains insufficient fair use and other exceptions to neighboring rights</p> <p>Includes incomplete enforcement provisions*</p>

\* The US working party questions highlight this issue.  
 \* The US working party questions highlight this issue.

APPENDIX A: FORM

**REPORT  
OF SUSPECTED VIOLATIONS OF COYRIGHT LAW**

TO: Reporting Division, Intellectual Property Protection Authority

FROM: \_\_\_\_\_  
Name

\_\_\_\_\_  
Government Agency/Place of Employment

\_\_\_\_\_  
Professional address or residence

DATE: \_\_\_\_\_

*Instructions: This form is to be used to report and identify goods which are suspected as being pirated goods, evidence of piracy, or implements used to manufacture pirated goods. Please provide as much of the following information as possible, sign below, and file the completed form with the Reporting Division of the Intellectual Property Protection Authority at [address].*

Brief description of goods, including estimated quantity and nature (e.g., video or audio recordings, computer software, books, etc.):

Location of goods:

Owner or person in possession of goods:

Persons with possible knowledge or information about goods:

Capacity in which the undersigned has an interest in the original works (e.g., as copyright owner, association of copyright owners, attorney, consumer, government employee, etc.), if applicable:

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Signature

ANNEX N° 5

APPENDIX B: FORM

**ORDER  
TO IDENTIFY/INVENTORY/CONFISCATE**

TO: \_\_\_\_\_  
specify certified IPPA employees, police representatives, or customs  
sheriffs

PURSUANT TO the request of \_\_\_\_\_, you are  
\_\_\_\_\_ private party or governmental body empowered to  
request action  
hereby ordered to identify/inventory/confiscate the goods referenced on the  
attached \_\_\_\_\_  
circle action(s) ordered  
document. This Order shall be executed no later than \_\_\_\_\_.  
date

[ Optional]

The goods confiscated pursuant to this Order shall be stored at \_\_\_\_\_  
and guarded \_\_\_\_\_  
location  
by a judicial guard.

[ Optional]

\_\_\_\_\_ has paid into court an insurance deposit in the amount  
of \_\_\_\_\_  
private party requesting action  
LL \_\_\_\_\_, an amount based on the estimated value of the goods

concerned.

You shall, at the time of the execution of this Order, provide copies of the following documents to owner of the goods identified/inventoried/confiscated. the owner is absent, the you shall provide the documents to the person in possession of the goods at the time of the execution of the Order:

1. This Order and its attachments;
2. A receipt indicating that insurance was deposited into court, if an order was issued to deposit such insurance.
3. A list of the identified/inventoried/confiscated goods.
4. The minutes of the identification/inventory/confiscation.

Notice to owner of goods: This Order is based upon the evidence summarized in the attached document. The authority issuing this order has determined that the evidence presented supports a conclusion that the goods ordered to be identified/inventoried/confiscated may comprise infringing works, evidence of infringement, or implements used to commit infringement, in violation of Copyright Law Article \_\_\_\_\_.

\_\_\_\_\_  
Signature of issuing authority

\_\_\_\_\_  
Date of Order

\_\_\_\_\_  
Title of issuing authority

ANNEX N° 6

APPENDIX C: FORM

**MINUTES OF  
IDENTIFICATION/INVENTORY/CONFISCATION OF SUSPECT  
GOODS  
UNDER COPYRIGHT LAW**

PURSUANT TO THE ORDER of \_\_\_\_\_ dated  
\_\_\_\_\_ and

authority issuing order

date of order

presented to \_\_\_\_\_ on \_\_\_\_\_, the goods  
listed below

person taking minutes

date order was presented

were identified/inventoried/confiscated on \_\_\_\_\_ at

\_\_\_\_\_.  
circle action(s) taken

date and time

location

**List of Goods:**

Item	Quantity	Type	Description



\_\_\_\_\_  
\_\_\_\_\_  
Signature of person executing order  
of goods or person in possession of goods

Signature of owner

\_\_\_\_\_  
Name \_\_\_\_\_ Name \_\_\_\_\_

\_\_\_\_\_  
Title \_\_\_\_\_ Title \_\_\_\_\_

\_\_\_\_\_  
Residence \_\_\_\_\_ Residence \_\_\_\_\_

\_\_\_\_\_  
Citizenship \_\_\_\_\_

Instructions:

1. The police representative, customs sheriff or IPPA employee ordered to identify, inventory or confiscate suspect goods shall complete this form in full upon the execution of the governing Order.
2. A copy of the Order and its attachments shall be attached to this form.
3. The person executing the Order shall inform the owner of the goods, or the person in possession of the goods, that he has the right to include on this form all the information or restrictions that he thinks might be useful, and shall provide that person with the opportunity to include such information.
4. The owner or person in possession of the goods shall sign the original and a copy of this form when it is completed. If the owner or person in possession of the goods refuses to or is unable to sign the form, that fact shall be documented in the space provided for the signature.
5. The person executing the Order shall provide the owner of the goods, or the person in possession of them, with a copy of this completed form and its attachments as soon as the order has been completely executed. He shall return the original to the authority issuing the Order.



Prosecutor

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Office of Prosecutor

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Date

\* Does not cover non-infringement violations of the Copyright Law such as those set out in Articles 85 and 87 of that law.

\*\* Optional; include if Copyright Law Article 86.1 applies.

## ANNEX N°8

Articles of the Lebanese Criminal Code relevant to the Intellectual Property criminal penalties:

### Article 702:

"Article 702 has been amended by legislative decree No 112 of 16/9/1983 as follows; the fine stated in this Article has been also amended under law No 239 of 27/5/1993.

Any person who knowingly:

Imitates a trade mark belonging to a third person whether or not he adds expressions such as "imitation", "imitated", "type", "kind" or "characteristics".

Affixes a mark belonging to a third person or an imitated mark to his trade products or goods.

Or sells a product bearing a violated or imitated mark or a mark apt to be sold.

Shall, whenever his act is of a nature as to mislead the buyer, be liable to a fine varying from LBP 100.000 to 1 million and to imprisonment with labor for a term varying from 3 months to 3 years or to one of these sections".

### Article 703:

"The fine stated in Article 703 has been amended under law No 239 of 27/5/1993 as follows:

Any person who, with intent to fraud, assimilates a mark to another mark without imitating it

Any person who sells such mark or sells or offers for sale a product to which he has affixed such mark

Shall, whenever his act is of such a nature as to mislead the buyer, be liable to a fine varying from LBP 100.000 to 500.000 and to imprisonment with labor for a term varying from two months to two years or to one of these sanctions".

### Article 704:

"Any person who sells, offers for sale or uses an imitated or assimilated mark with intent to fraud may maintain, if he has not committed the act in connivance with the persons who has imitated or assimilated the mark that he ignores that the mark has been registered".

#### Article 705

“Any person who puts on the mark, national or foreign decorations, erotic pictures or features or symbols or pictures or features or symbols that outrages public decency shall be liable to the sanction provided for in Article 703.

The judge may, under Article 98, order the confiscation of the mark whether or not the lawsuit let to the pronouncement of a judgment”.

#### Article 706:

“Any person who omits to affix, as duly prescribed, the appropriate trade marks to his products or;  
Any person who sells or offers for sale a product that does not bear the appropriate trade mark as duly required shall be liable to the same sanction.

The court shall rule the affixation of the mark as prescribed in Article 130”.

#### Article 707:

“Any person, who consciously causes damage to the patent rights granted by virtue of applicable laws, shall be punished by a fine varying from LBP 200.000 to 1 million”.

#### Article 708:

“Whoever had helped, in any manner whatsoever, the patent holder and dared while or after assisting him commit the crime mentioned in the previous Article, as author or accomplice or instigator, shall be punished by imprisonment with labor from 3 months to 3 years and by a fine from LBP 500.000 to 2 millions”.

#### Article 709:

“The imitator, his instigator and accomplices cannot allege to be in ignorance of the patent existence.

As regards persons who commit the crime of selling, offering for sale, concealing imitated products or using such products may allege their faults according to the general rule laid down in Article 224”.

#### Article 710:

“Any person who consciously causes damage to industrial designs duly registered and published and guaranteed by applicable laws, shall be punished by a fine varying from LBP 50.000 to 500.000”.

Article 711:

“If the criminal assists or had assisted in any manner whatsoever the prejudiced, he shall be punished by both fine and 3 months imprisonment with labor”.

Article 712:

“Shall be exempted from penalty, whoever proves that he is ignorant of the registration”.

Article 713:

“If the trademark, patent, or industrial designs duly registered were not published at the time of committing the crime, the author shall be punished if he appears to be well-informed about the registration”.

ANNEX N° 9

1999 100 101 102

RAID(S)

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Number of Raids	1999	100	101	102
Copyright Piracy	19	15	42	15
Trademark Infringement				
Number of Proceedings				
Copyright Piracy	2	30	20	—
Trademark Infringement				
Number of Cases				
Copyright Piracy	—	—	1	3
Trademark Infringement				
Amount of Damages				
Copyright Piracy	—	—	3,000,000 L.L.	15,000,000 L.L.
Trademark Infringement				
Term of Imprisonment				
Copyright Piracy	—	—	—	ONE MONTH in each of 3 cases
Trademark Infringement				



## ANNEX N° 10

### **Article 27: of the Lebanese Law of Printed Publication.**

“Liability for the crimes committed through printed publications other than those stated in the previous Article shall fall on the author as the original perpetrator and on the publisher as the as an accomplice. If the author and the publisher are unknown, liability shall fall upon the person in charge of the printing establishment and the proprietor shall be civilly liable.

The cases stipulated for in the first paragraph of this Article the provisions of paragraph 2 of Article 26.

The owners of printing establishments, publishing houses and distribution houses, shall be civilly liable for the personal rights and for the expenses resulting form the legal suits brought against their employees with regard to printed publications.

Whenever a printed matter is suspended or whenever the license of a printed matter is canceled by a decision or judgment, its publication shall be prohibited, whatever maybe be the means of publication, whether by borrowing the license of another newspaper and using its name, or by any other misleading means such as showing the name of the suspended newspaper in a way or another or in such a manner as to give to the reader the impression that he is reading the suspended printed matter or any other methods intended to go beyond suspension. Such being the case, the printed matter shall be immediately confiscated by decision of the Minister of Information and the conniving printed matter shall be suspended under the same decision for a period varying from one to three months.

As more people buy computers, software piracy will increase. When software companies develop new ways to protect their software, software pirates will find ways to defeat these protection schemes and ways to avoid weak copyright laws. Perhaps in the future the US governments will help the software designers by passing stronger laws and penalizing countries that do not abide by International copyright laws.”