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PRESENTATIONS ON NATIONAL AND REGIONAL EXPERIENCES WITH SPECIFIC
LEGISLATION FOR THE LEGAL PROTECTION OF TRADITIONAL CULTURAL
EXPRESSIONS (EXPRESSIONS OF FOLKLORE)

Document prepared by the Secretariat

1. On December 6, 2002, the Secretariat of the World Intellectual Property Organization (WIPO) received from the Delegation of the Russian Federation a presentation for circulation at the fourth session of the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, entitled "General Information, Russian National House of Folks Arts, Ministry of Culture of the Russian Federation." The presentation is Annexed to document WIPO/GRTKF/IC/4/INF/5.
2. The Annex to the present document contains further information which forms part of the presentation of the Delegation of the Russian Federation.

[Annex follows]

ANNEX

THE RUSSIAN FEDERATION MINISTRY OF CULTURE OF THE RUSSIAN
FEDERATION RUSSIAN NATIONAL HOUSE OF FOLK ARTS

COPYRIGHT AND INTELLECTUAL PROPERTY

Copyright and Related Rights Act of the Russian Federation adapted in 1993 includes all basic principle of Bern Convention. In Russia all pieces of literature, science and arts, no matter what is the way or form of their expression, are subject of copyright protection.

Article 6 of Copyright and Related Rights Act says:

1. Copyright affects works of science, literature and art which are results of creative activity, no matter its purpose, value or mode of expression;
2. Copyright affects both promulgated and non-promulgated works existing in any objective form;
3. Copyright does not affect ideas, methods, processes, systems, modes, conceptions, principles, discoveries, facts.

Copyright protection of any work is applicable only in case when it is original. Ideas of a work, its content do not need to be necessarily new. But the expression of those ideas must be an original work created by an author. Protection of a work does not depend on its artistic qualities since any judgement is always arbitrary. Any work must be protected, no matter its value and quality, not even its purpose, since the use of a work has nothing to do with its protection.

Works which are subject of copyright protection must be results of creative activity. That means that they are to be created by an author or a group of authors. They should not be exposed to any kind of novelty or quality verification.

Work is protected even when it is not a piece of literature or art in proper sense of the word. For instance, copyright protection affects such works as technical instruction, engineer drawing or even map. Still those works are protected the same way as artistic works: protection applies not to the ideas as such but to the form in which they are expressed.

Almost all national copyright acts secure copyright protection of below mentioned types of works.

Article 7 of Copyright and Related Rights says:

Subject of Copyright are:

- works of literature (including computers' programs);
- drama and music-and-drama works, scripts;
- choreographic and mime works;
- music works (with text and without text);
- audiovisual works (film, TV and video films, slide films and other film and TV works);

- works of painting, sculpture, graphics, design, drawing stories, comics and other works of fine arts;
- works of applied arts and set design;
- photo works and other works created with the use of means similar to photography;
- geographical, geological and other maps, schemes, drawings related to geography, geology and other sciences;
- other works.

Exceptions from copyright protection are mentioned in the Copyright Act. Russian Law the same way as in many other countries does not affect information and reports related to events and facts, official papers – acts, court verdicts and official translations. Copyright does not protect works of folk arts, state symbols and banknotes.

Some remarks should be made regarding related rights when performers of works (story-tellers, dancers, musicians) are rights owners and have the right to be remunerated for any performance of their work (article 37, Copyright Act). Still there are many examples in practical life when producers exploit products of artistic creativity to produce audiovisual works which after all are copied for sale. Or TV companies shoot folk feasts as information material for free and after it edit video films for sale without making notice to performers and artistic directors who had previously revived the tradition.

Reason why it happens so:

- Most of the population is not aware of legal issues (very often a performer has no idea that he is an owner of intellectual property).
- Legal nihilism of physical or legal persons violating copyright
- Sanctions for such a violation are not defined precisely by law
- Copyright legal practice in the courts is not developed because such a law did not exist before 1993.

COPYRIGHT IS A RIGHT FOR INTELLECTUAL PROPERTY

Intellectual property is understood in Russia as a totality of exclusive rights for the results of intellectual activity and for other objects conferred the same status. The Civil Code of the Russian Federation does not comprise a precise list of protected objects belonging to intellectual property. On the other hand, article 138 of the Civil Code says that the legal protection of the results of intellectual activity is secured “in cases and the way it is defined by the present Code and other legal acts.”

That means that an explicit instruction given by law is needed to qualify this or that result of intellectual activity as an object of intellectual property. The Copyright and Adjacent Rights Act says that copyright is exclusive. That means that objects of copyright are, in fact, objects of intellectual property.

Nobody but copyright owner himself may decide the issues of his competence. That concerns, first of all, the rights of use of his work taking into account legally adapted rights and interests of third persons. He may also prohibit third persons to use his work without his own permission.

It is obvious that author may apply both existing modes of use of his work and those which will come in Future. With some kind of reserve we may say that the totality of copyrights is divided into two parts: personal property rights and moral rights.

Russian law defines with quite a lot of details the issues of protection of intellectual property.

[End of Annex and of document]