

THE LAW OF THE KYRGYZ REPUBLIC

On copyright and neighboring rights

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Section I General provisions

Article 1. Subject of Regulation

This Law regulates relations arising in connection with the creation and use of works of science, literature and the arts (copyright), phonograms, performances, stage productions, and the programs of television and radio broadcasting and cable TV organizations (neighboring rights).

Article 2. Kyrgyz Legislation on Copyright and Neighboring Rights

1. The legislation of the Kyrgyz Republic on copyright and neighboring rights consists of this Law, which is a part of civil legislation of the Kyrgyz Republic, other legislative acts of the Kyrgyz Republic to be issued pursuant to this Law.

2. If an international agreement to which the Kyrgyz Republic is a party establishes other rules than those set forth hereunder, the rules of the international agreement shall apply.

Article 3. State Regulation in the Area of Protection of Copyright and Neighboring Rights

1. State regulation in the area of copyright and neighboring rights is implemented by the State Agency for Intellectual Property at the Government of the Kyrgyz Republic (Kyrgyzpatent) (hereinafter referred to as Kyrgyzpatent).

2. Kyrgyzpatent shall work out and implement the state policy in the area of protection of copyright and neighboring rights.

Functions and authority of the Kyrgyzpatent shall be determined by this Law and other normative acts of the Kyrgyz Republic.

The Government of the Kyrgyz Republic shall approve the Provisions on Kyrgyzpatent.

Article 4. Basic Definitions

For the purposes this Law the following terms shall have the following meanings:

Author - the individual, by whose creative labor a work was produced;

Audio-visual work - a work consisting of a fixed series of interrelated images (accompanied or not accompanied by sound) meant for perception by eye and ear (if accompanied by sound) by means of appropriate technical devices; the audio-visual works comprise cinematographic works and all works expressed by means similar to cinematography (TV and video films, slide films, transparency strips and the like) regardless of the method of their original or subsequent fixing;

Database - an objective form of presentation and organization of a combination of data (articles, calculations and etc.) systematized so as to make it possible to find and process such data with the help of a computer;

Reproduction of a work - manufacturing of one or more copies of a work or a part thereof in any material form, including the form of an audio or video recordings; manufacturing in three dimensions of one or more copies of a two-dimensional work or in two dimensions of one or more copies of a three-dimensional work; the recording of a work in computer memory shall also be its reproduction;

Reproduction of a phonogram - the making of one or more copies of a phonogram or a part thereof in any material medium;

Recording - fixing of sounds and/or images by means of technical facilities in any material form which makes possible their repeated perception, reproduction or communication;

Manufacturer of an audio-visual work - the individual or legal entity that has assumed the initiative and responsibility for the production of such work; unless proved otherwise, the individual or legal entity, the name of which is indicated on an audio-visual work in the usual manner, shall be recognized as the manufacturer of such work;

Phonogram manufacturer - the individual or legal entity that has assumed the initiative and responsibility for the first audio recording of a performance or other sounds; unless proved otherwise, the physical or legal entity, the name of which is indicated on a recording and/or on the cover thereof in the usual manner, shall be recognized as the manufacturer of such phonogram;

Performance - presentation of works, phonograms, performances or stagings by way of acting, recitation, singing or dancing either live or by way of technical facilities (television and radio broadcasting, cable TV or other technical systems); the display of images of an audio-visual work in their sequence (accompanied or not accompanied by sound);

Performer - the actor, singer, musician, dancer or other person who plays the part, sings, plays a musical instrument or otherwise performing works of literature or the arts (including a variety show, circus or puppet performance), as well as the conductor/ director of a play and the conductor;

Copyright and/or neighboring rights owner:

an author or performer, in the instances when they are endowed with property rights;

an individual or a legal entity to whom these rights were assigned;

an individual other than the author or performer, or a legal entity, in the instances when the property rights were initially assigned to such individuals or legal entities;

Publication of a work - the action taken with the author's consent that for the first time makes his work accessible to the general public by way of its printing, public display, public performance, broadcasting or otherwise;

Issuance - circulation of copies of a work or phonogram with the consent of the author of such work or the manufacturer of the phonogram for the purpose of meeting the demand of the public. Issuance is also understood as providing access to a work, phonogram, via electronic information systems.

Air transmission - conveyance of works, phonograms, performances, stagings and broadcasts of television and radio broadcasting and cable TV organizations to the general public (including their display or performance) by way of their transmission on the radio or television (with the exception of cable television). In the transmission of works, phonograms, performances, stagings and programs of television and radio broadcasting, and cable organizations via a satellite, air transmission shall be understood as reception of signals from a ground station by the satellite and the transmission of such signals from such satellite, whereby works, phonograms, performances, stagings and programs of television and radio broadcasting, and cable TV organizations can be brought to general notice regardless of their actual reception by the public;

Program of television and radio broadcasting, and cable TV organizations - program produced by a television and radio broadcasting or cable organization itself or, under an order placed thereby and at its own expense, by another organization;

Display of work - demonstration of the original or a copy of a work directly or on screen by means of film, a slide, a television frame or other technical facilities, as well as the demonstration of individual images of an audio-visual work without observing their sequence;

Copyright and neighboring rights users - publishing houses, editorial offices of newspapers and magazines, TV and radio studios, cable studios, theaters, concert and review enterprises, cinemas, video salons, trade outlets dealing with selling audio and video cassettes and laser discs with records, creative collectives regardless of the form of property, as well as individuals and users of computer software;

Subsequent air transmission - subsequent air transmission of works, phonograms, performances, stagings, and programs of air and cable broadcasting;

Computer software - an objective form of presenting a combination of data and commands meant for the operation of computers and other computing devices for the purpose of obtaining a certain result, including preparatory material produced in the course of developing a computer software and the audio-visual images generated thereby;

Work of applied art - a two-dimensional or three-dimensional work of art transmitted onto articles in practical use, including a handicraft or an industrially manufactured work;

Derived work - a product of intellectual labor, based on another work (translation, adaptation, stage adaptation, remake, etc);

Public demonstration, public performance or communication for the general public - any display, performance or communication of works, recording, performances, stagings and programs of television and radio broadcasting, and cable TV organizations either directly or by means of technical facilities in a place open to the general public or in a place attended by a substantial number of persons outside the usual family circle, regardless of whether such works, phonograms, performances, stagings, and programs of the air or cable broadcasting organizations are received in the

place of their transmission or elsewhere simultaneously with the transmission of works, phonograms, performances, stagings, and programs of air and cable broadcasting organizations;

Director/producer of a play - the person who has produced a theatrical, circus, puppet, cabaret or other show (spectacle);

Duplication (reprographic reproduction) of a work - facsimile reproduction in any size and form of one or more copies of the originals or copies of written or other graphic works by means of photocopying or with the help of other technical facilities, other than publishing; reprographic reproduction shall not comprise the storage or reproduction of said copies in the electronic (including digital), optical or other machine-readable form;

Rebroadcasting - a simultaneous transmission of programs of one broadcasting organization on air (cable), exercised by another broadcasting organization; To lease (hire) - to provide a copy of a work or recording for temporary use with the aim of deriving direct or indirect commercial profit;

To communicate - to show, perform, broadcast or take other action (except distribution of copies of a work or phonogram), whereby works, phonograms, performances, stagings and programs of television and radio broadcasting, and cable organizations become accessible for audio and (or) visual perception, irrespective of their actual perception by the public;

To communicate for general notice by cable - communicate works, phonograms, performances, stagings and programs of television and radio broadcasting and cable TV organizations to the general public by means of cable, wire, fiber optics or similar means;

Phonogram - any exclusively audio recording of a performance or other sounds;

Copy of a work - a copy of a work, made in any material form; and

Copy of a phonogram - a copy of a phonogram on any material medium, made directly or indirectly from a phonogram which includes all or a part of the sounds recorded in such a phonogram.

Section II Copyright

Article 5. Sphere of Application of Copyright

1. Pursuant to this Law, copyright shall expand:

to works published or unpublished, existing in some objective form on the territory of the Kyrgyz Republic regardless of the citizenship of their authors and successors thereof;

to works published or unpublished, existing in some objective form outside the Kyrgyz Republic, and shall extend to the authors who are Kyrgyz nationals and successors thereof; and

works published and unpublished, existing in some objective form outside the Kyrgyz Republic, and shall be extended to the authors and successors thereof who are nationals of other countries according to the international agreements of the Kyrgyz Republic.

2. A work shall also be deemed published in the Kyrgyz Republic if it was published in its territory within 30 days after the date of its first publication outside the Kyrgyz Republic.

3. In granting protection to a work in the territory of the Kyrgyz Republic according to its international agreements, the author of such work shall be determined pursuant to the legislation of the state in the territory of which there has been established his/her copyright.

Article 6. Object of Copyright. General Provisions

1. Copyright shall expand to works of science, literature and the arts that are a result of creative activity, irrespective of the purposes or merits of such works, and the methods of expressing the same.

2. Copyright shall expand both to published and unpublished works existing in some objective form, including:

written form (manuscripts, typewritten works, musical notation, etc.);

oral form (public pronouncement, public performance, etc.);

audio or visual recording (mechanical, magnetic, digital, optical, etc.);

image (drawing, sketch, painting, plan, diagram, sign, television, video or photographic frame, etc.);

three-dimensional form (sculpture, model, structure, installation etc.); and

other forms.

3. Any part of a work (including its name), which meets the requirements of paragraph 1 of this Article and can be used independently, shall be an object of copyright.

4. Copyright shall not apply to ideas, methods, processes, systems, ways, concepts, principles, discoveries, and facts.

5. Copyright for a work shall not be connected with the right of ownership to the material object in which such work is expressed.

The transfer of the right of ownership to such material object or the right of possession of the same shall not per se entail the transfer of any copyright of the work expressed in the said object except in cases described by Article 17 hereof.

Article 7. Works Constituting Objects of Copyright

1. Objects of copyright shall be as follows:

literary works (books, booklets, articles, computer software, etc);
dramatic and musical-dramatic works and scripts;
choreographic works and pantomimes;
musical works with or without any text;
audio and visual works (movies, television films, videos, slide films, transparency strips and other cinematographic and TV works);
paintings, sculptures, drawings, designs, graphical stories, comics and other works of fine arts;
works of applied art and scenography;
works of architecture, town planning and landscape gardening;
photographic works and works produced by methods similar to photography;
geographical, geological and other maps, plans, sketches and plastic works related to geography, topography and other sciences;
and other works.

2. Protection of computer software shall expand to all software (including operational systems) which may be expressed in any language and any form including the original text and the object code.

3. Subjects of copyright shall also include:

derivative works (translations, adaptations, synopses, summaries, resumes, reviews, stage versions, musical arrangements and other reworkings of works of science, literature and art);
collections (encyclopedias, anthologies and databases) and other composite works which are a result of creative work, based on the selection and arrangement of the included material.

Derivative and composite works shall be protected by copyright regardless of whether the original works on which they are based or which they include are objects of copyright.

Article 8. Works That Are not Subject of Copyright

The following shall not be objects of copyright:

official documents (laws, court decisions, and other legislative, administrative and judicial texts), as well as official translations thereof;
state symbols and signs (flags, emblems, orders, banknotes and other state symbols and signs);
works of folk art; and
news reports on events and facts.

Article 9. Creation of Copyright. Presumption of Authorship.

Registration of Work

1. Copyright of a work of science, literature or the arts shall arise by virtue of the fact of its creation. No registration or other specific formalization of the work, or observation of any other formalities shall be required for copyright to be derived and exercised.

To inform about his/her rights, the owner of a copyright shall be entitled to use the sign of protection of the copyright, which shall be placed on each copy of the work and consist of three elements:

- A. encircled Latin letter C - c;
- B. the name (denomination) of the owner of the copyright;
- C. the year of the first publishing of the work.

2. Unless proven otherwise, the person indicated as the author on the original or a copy of a work shall be regarded as its author.

3. In publication of a work anonymously or under a pseudonym (other than in cases where the author's pseudonym does not leave any doubt as to its identity), the publisher, whose name is indicated on such work, shall be considered, unless proven otherwise, the author's representative according to this Law and be entitled in this capacity to protect the rights of the author and cause them to be implemented. This provision shall apply until the author of such work reveals his identity and declares his authorship.

4. The owner of the exclusive copyright of an issued or non-issued work, may register it in the state registries within the term of validity of the copyright.

5. A certificate of an established form shall be issued to a person, registering his/her work. Pursuant to points 1 and 2 of this Article, this certificate cannot serve as a presumption of authorship.

6. The Kyrgyzpatent shall register the works of literature, art and science.

Article 10. Co-Authorship

1. Copyright of a work produced by a joint creative labor of two or more persons (co-authorship) shall belong to co-authors jointly, irrespective of whether such work forms an integral whole or consists of independent parts.

A part of a work shall be deemed independent, if it can be used independently from other parts of such work.

Each of the co-authors shall be entitled to use the part of the work that has been created by him, and which is independent of his own discretion unless otherwise provided by the agreement between the coauthors.

2. The right to use the work as a whole shall belong to the coauthors jointly. The relationship of the coauthors may be regulated by an agreement between them. If the work of the coauthors constitutes an integral whole, none of the coauthors may prohibit its use without sufficient grounds.

Article 11. Copyright of Compilers of Collections and Other Composite Works

1. The author of a collection or other composite works (compiler) shall have copyright in the selection or arrangement of materials done thereby and representing a result of creative work (compilation).

The compiler shall enjoy copyright provided that he observes the rights of the authors of each of the works included in the composite work.

The authors of works included in a composite work may use their works independently of the composite work unless otherwise provided by the authorship agreement.

The compiler's copyright shall not prevent other legal entities from independent selection or arrangement of the same materials to produce their own composite works.

2. The publishers of encyclopedias, encyclopedic dictionaries, periodic and continuing collections of scientific works, newspapers, magazines and other periodicals shall enjoy the exclusive right to use such publications. In the event of any use of such publications the publisher may indicate his name or demand such indication.

The authors of works included in such publications shall retain the exclusive rights to use their works independently of the publication as a whole.

Article 12. Copyright of Translators and Authors of Other Works

1. Translators and the authors of other derivative works shall have copyright of their translations, adaptations, or arrangements or other reworkings.

The translator and the author of some other derivative work shall enjoy copyright in his/her work provided he/she observes the rights of the author of the work translated, adapted, re-arranged or otherwise reworked.

2. The copyright of translators and the authors of other derivative works shall not prevent other persons from doing their own translations and adaptations of the same works.

Article 13. Copyright In Audio-Visual Works

I. The authors of audio-visual works shall include:

- Director/producer;

- Author of the script (scriptwriter);

- Author of the musical work, with or without any text and specifically created for such audio-visual work (composer).

2. Entering into authors' agreement on creation of a audio-visual work, shall entail assignment by the authors of this work of the exclusive rights such as reproduction, distribution, public performance, transmission through cable, airing or any other public communication of the audio-visual work, as well as subtitling and dubbing of the text of this work unless otherwise provided by an agreement. These rights shall be effective during the entire term of effect of the copyright on audiovisual work.

The manufacturer of an audio-visual work may, in any use of such work, indicate his name or demand such an indication.

3. In public performance of an audio-visual work, the author of a musical work (with or without text) shall retain the right to remuneration for the public performance of his musical work.

4. The authors of works comprising an audio-visual work which contains works that existed prior to creation of this work (author of a novel, on which a script is based), and those created in the process of work thereon (camera director, stage director, etc), shall enjoy their copyright independently of the audio-visual work as a whole.

5. Destruction of the final variant of the film (negative or original copy) without permission of the author or other copyright owners shall be prohibited.

Article 14. Copyright of Work Produced During Employment

1. Copyright of work created as part of job responsibilities or the employer's job assignment (work produced during employment) shall belong to the author of such work.

2. The exclusive right to use the work produced during employment shall belong to the person with whom the author maintains employment relationships (employer) unless otherwise provided in the agreement between the employer and the author.

The amount of author's fees for each kind of use of a work produced during employment and the procedure for paying such fees shall be determined by the agreement between the author and the employer.

3. The employer may, in any use of a work produced during employment, indicate his name or demand such an indication.

4. The provisions of this Article shall not apply to the production of encyclopedias, encyclopedic dictionaries, periodicals and continuing collections of scientific works, newspapers, magazines and other periodicals (point 2 of Article 11 of this Law) produced as part of job responsibilities or the employer's job assignment.

Article 15. Personal Non-Property Rights

1. The author shall enjoy the following personal non-property rights with respect to his work:

- Right to be recognized as the author of such work (copyright);
- Right to use or authorize the use of such work under the real name of the author, his pseudonym or without the indication of a name, i.e. anonymously (right to a name);
- Right to publish or authorize publication of such work in any form (right to publication, including the right to recall; and
- Right to protection of such work including its name, against any distortion or any other infringement thereon that can damage the honor or dignity of the author (right to protection of the author's reputation).

2. The author may revoke a prior decision on the publication of his work (right to recall provided that he compensates the user for the losses caused by such decision (including lost profits). If the work has already been published, the author shall be obligated to announce its recall publicly. In this event he may withdraw from circulation, at his own expense, the earlier produced copies of such work.

3. The personal non-property rights shall belong to the author independently of his property rights and be reserved for him even after the assignment of the exclusive rights to use the work.

Article 16. Property Rights

1. The author shall have the exclusive right to use his work in any form and by any means.

2. The author's exclusive right to use his work shall mean the right to implement, permit, or prohibit the following actions:

- Reproduction of the work (right of reproduction);
- Dissemination of copies of the work by any means, including: sale, leasing, etc, (right of distribution);
- Import of copies of the work for the purposes of distribution, including copies produced with the permission of the exclusive copyright holder (right of import);
- Public demonstration of the works (right of public demonstration);
- Public performance of the work (right of public performance);
- Communication of the work (including its display, performance or broadcasting) to the general public by broadcasting and/or subsequent broadcasting (right of broadcasting);
- Communication of the work (including its display, performance and broadcasting) to the general public by cable, wire or other similar facilities (right of communication to the general public by cable);
- Translation of the work (right of translation); and
- Adaptation, rearrangement or other reworking of the work (right of reworking).

The author's exclusive rights to use design, architectural, town planning and landscape gardening plans shall also include the practical implementation of such plan. The author of accepted architectural project shall be entitled to demand from a customer the right to participate in carrying out of his/her project upon submission of the documents for construction and upon construction of a building or an installation unless otherwise provided in the agreement.

3. If copies of a legitimately published work have been introduced into circulation by means of sale, they may be further distributed without the consent of the author and payment of author's fees.

The right to disseminate copies of a work by leasing the audio-visual work, computer software, database of the work fixed in a phonogram, and notated musical work shall belong to the author regardless of the right of ownership to such copies.

4. The amount of author's fees for each kind of use of a work and the procedure for calculating such fees shall be established in the authorship agreement, as well as in agreements to be entered into by organizations managing the authors' property rights on a collective basis and users.

5. Restrictions on the authors' rights as set forth in paragraph 2 of this Article shall be set forth by Articles 17-26 of this Law provided that such use does not cause unjustified harm to the regular use of a work and infringe upon the legitimate interests of the author.

Article 17. Right of Access to Works of Fine Arts. Right of Succession

1. The author of a work of fine arts may require that the owner of such work make possible for the author to exercise his/her right to reproduction of his work (right of access). The owner of such work may not be required to deliver the work to the author.

2. The transfer of the right of ownership to a work of fine arts (for a payment or gratuitously) from the author to another person shall mean the first sale of such work.

In each case of a public resale of a work of fine arts (through an auction, art gallery, art salon, shop, etc.) at a price exceeding the previous one by at least 20 percent, the author shall be entitled to receive a remuneration from the seller, amounting to 5 percent of such reselling price (right of succession). Such right shall be inalienable and shall pass only to the author's heirs by law for as long as the appropriate copyright remains in force.

Article 18. Reproduction of a Work for Personal Needs Without Author's Consent and Payment of Royalties

1. A legitimately published work may be reproduced without the author's consent and without payment of royalties exclusively for personal needs with the exception of cases provided in Article 26 of this Law.

2. The provisions of paragraph 1 of this Article shall not apply with respect to:

- reproduction of architectural works in the form of buildings and similar structures;
- reproduction of databases or substantial portions thereof;
- reproduction of computer programs with the exception of cases provided for in Article 25 of this Law;
- reproduction of books (in full) and musical notations.

Article 19. Reproduction of Work Without Author's Consent and Payment of Royalties

1. The following shall be permitted to be reproduced without the author's consent and payment of royalties but with obligatory indication of the author's name and the source of the borrowing:

1) Quotation in the original or translation for scientific, research, polemical, critical and informational purposes of legitimately published works in such amounts as may be justified by the purpose of such citation, including reproduction of excerpts from newspaper and magazine articles in the form of press reviews;

2) Use of legitimately published works and excerpts therefrom as illustrations in publications, radio and television broadcasts and educational audio and video recordings in such amounts as may be justified by the objective goal;

3) Reproduction in newspapers, broadcasting or bringing to public attention by cable of legitimately published newspaper or magazine articles on current economic, political, serial and religious issues or broadcast works of the same nature in cases where such reproduction, broadcasting or communication by cable have not been expressly prohibited by the author;

4) Reproduction in newspapers, broadcasting or bringing to public attention by cable of publicly made political speeches, addresses, reports and other similar works in such amounts as may be justified by reporting requirements, with the author in such cases retaining the right to publication of such works in collections;

5) Reproduction or reporting for general information in reviews of current developments by means of photography, broadcasting or bringing to public attention by cable of works that will be seen or heard in the course of such developments in such amounts as may be justified by reporting requirements, with the author in such cases retaining the right to publication of such works in collections; and

6) Reproduction of legitimately published works without profit by using the Braille system or other special means for the blind, except works specifically produced for such means of reproduction.

2. Export of a copy of work without author's or other copyright owner's consent by a physical person shall be allowed for personal purposes, with the exception of the works, which export damages the national interest of the republic, which list is determined in compliance with the established procedure.

Article 20. Uses of Works by Way of Reproduction

The following may be reproduced in a single copy without profit and without the author's consent and payment of royalties, but with obligatory indication of the author's name and the source of borrowings:

1) A legitimately published work by libraries and archives in order to restore or replace lost or damaged copies and provide copies of such work to other libraries that no longer have such work in their collections for any reason;

2) Individual articles and small-volume works legitimately published in collections, newspapers and other periodicals, and short extracts from legitimately published written works (with or without illustrations) by libraries and archives as requested by individuals for educational or research purposes; and

3) Individual articles and low-volume works legitimately published in collections, newspapers and other periodicals, and short extracts from legitimately published written works (with or without illustrations) by educational establishments to be used in classes.

Article 21. Free Uses of Works Permanently Located in Places Accessible to the General Public

A work of architecture, photography or fine arts permanently located in a place open to the general public may be reproduced, broadcasted, or brought to public attention by cable without the author's consent and payment of royalties, with the exception of cases where the image of a work is the principal object of such reproduction, broadcast or bringing to general attention by cable or where the image of a work is used for commercial purposes.

Article 22. Free Public Performance

Musical works may be performed publicly without the author's consent and payment of royalties during official and religious ceremonies, as well as funerals, to such extent as may be justified by the nature of such ceremonies.

Article 23. Free Reproduction for Judicial Purposes

Works may be reproduced without the author's consent and payment of royalties for the purposes of judicial proceedings to such extent as may be justified for these purposes.

Article 24. Free Short-Use Recording by Broadcasting Organizations

A radio or television broadcasting organizations may make, without the author's consent and payment of additional royalties, a short-use recording of a work with respect to which such organization has the right to broadcast provided that such recording is made by way of use its own equipment and for its own broadcasts. In addition, such organization shall be obligated to destroy such recording within six months after its production unless a longer term has been agreed upon with the author of the recorded work. Such recording may be preserved without the author's consent in official archives if such recording is of a purely documentary nature.

Article 25. Free Reproduction of Computer Software and Databases. Decompilation of Computer Programs

1. A person legitimately owning a copy of a computer software or a database shall have the right, without obtaining permission of the author or other owner of the exclusive rights to use such work and without paying any additional royalties:

1) Make changes to a computer software or a database exclusively for the purposes of its functioning on the user's hardware, and perform any actions connected with the functioning of a computer program or a database according to its

purpose, including recording and storage in computer memory (the memory of a single computer or a single user of the net), as well as correction of obvious mistakes, unless otherwise provided by the agreement with the author; and

2) Make a copy of a computer software or a database provided that such copy is intended for archival purposes only or for replacement of a legitimately acquired copy in cases where the original of the computer program or data base has been lost, destroyed or become unfit for the use. In these events such copy of the computer program or database may not be used for other purposes indicated in subpoint 1 of this Article and must be destroyed if possession of the copy of such computer program or database ceases to be legitimate.

2. A person legitimately owning a copy of a computer program shall have the right, without the consent of the author or other holder of exclusive rights and without payment of additional royalties, reproduce and convert the object code into the original text (decompile the computer program) or instruct other persons to do so if it is necessary to achieve the compatibility of a computer program independently developed by such person to interface with other programs which may interact with program being decompiled provided the following:

1) The information required to achieve such compatibility has not been previously accessible to such a person from other sources;

2) Such actions are limited to the portions of the decompiled computer software required to achieve said compatibility; and

3) The information obtained as a result of such decompilation may be used only to achieve compatibility of the developed computer software to interact with other programs and may not be transferred to other persons with the exceptions of cases where this is required to achieve the compatibility of the independently developed computer software and may not be used to develop a computer software substantially similar by its appearance to the decompiled computer software or to perform any other action violating the copyright.

3. Application of the provisions of this Article shall not cause unjustified harm to the normal use of a computer software or a database and infringe upon the legitimate interests of the author or other holder of the exclusive rights to such computer program or database.

Article 26. Reproduction of Work for Personal Needs Without Author's Consent and Payment of Royalties

1. As an exception from the provisions of Articles 37 and 38 of this Law, an audio-visual work or the audio recording of a work may be reproduced exclusively for personal needs without the consent of the author, performer and phonogram manufacturer, but with payment of royalties to them.

2. Royalties for such reproduction as described by paragraph 1 of this Article shall be paid by the manufacturers or importers of the equipment (audio and video recorders and other equipment) and material media (audio and/or video tapes and cassettes, laser disks, compact discs and other material media) used for such reproduction.

Such royalties shall be collected and distributed by one of the organizations managing the property rights of authors, phonogram manufacturers and performers on a collective basis pursuant to an agreement among such organizations (Article 44 of this Law). Unless otherwise provided by such an agreement, the said royalties shall be distributed as follows: forty percent shall go to the authors, thirty percent shall go to the performers, and thirty percent to the phonogram manufacturers.

The amount of royalties and the terms and conditions of payment thereof shall be determined by an agreement between the aforementioned manufacturers and importers on the one hand, and the organizations managing the property rights of authors, phonogram manufacturers and performers on a collective basis on the other hand, or, should the parties fail to reach such agreement, by an expressly authorized agency of the Kyrgyz Republic.

3. Royalties shall not be paid with respect to equipment and material media indicated in paragraph 2 of this Article which are subject to export, as well as professional equipment not intended for use in home conditions.

Article 27. Effective Term of Copyright

1. Copyright shall remain effective during the lifetime of the author and for 50 years after his death with the exceptions provided by this Article.

The right of authorship, the right to a name and the right for protection of the author's reputation shall be protected indefinitely long.

2. The author may nominate a person, in the same way as the executor is appointed for a will, who will be charged with authority to protect the right of authorship, the right to a name and the right for protection of his reputation after his/her death. Such person shall perform such powers during his/her lifetime.

In the absence of such nomination, protection of the right of authorship, the right to a name, and the right to protection for the author's reputation after his/her death shall be carried out by his/her heirs or an expressly authorized agency of the Kyrgyz Republic provided such protection in cases where there are no heirs or their copyright has expired.

3. Copyright with respect to a work published anonymously or under a pseudonym shall remain effective for 50 years from the date of its legitimate publication.

If during the said term the author of the work issued anonymously or under a pseudonym reveals his/her identity or there are no longer any doubts as to his/her identity, the provision of the first paragraph of point 1 of this Article shall apply.

4. Copyright with respect to a coauthored work shall be valid during the lifetime and for 50 years after the death of the last author surviving the other coauthors.

5. Copyright with respect to a work published for the first time after the death of an author shall be in effect for 50 years after its publication.

In the event an author was unlawfully repressed and rehabilitated after his/her death protection of the copyright shall take effect as of January 1 of the year following the year of the rehabilitation.

In the event an author worked during the World War II or participated in it the term of protection of the copyright provided for by this Article shall be extended for 4 years.

6. The terms of this Article shall take effect as of January 1 of the year following the year in which the legal fact providing the grounds for the commencement of such terms took place.

Article 28. Public Property

1. Expiration of the effective period of copyright in a work shall mean the transfer of such work to public ownership. Works which have never been protected in the territory of the Kyrgyz Republic shall also be deemed public property.

2. Works in public ownership may be freely used by any person without payment of royalties in which case the right to authorship, right to a name and right to protection for the author's reputation (Article 15 of this Law) must be observed.

3. The Government of the Kyrgyz Republic may establish cases where special deductions shall be paid for use in the territory of the Kyrgyz Republic of works in public ownership. Such deductions shall be paid to the professional funds of authors, as well as organizations managing authors' property rights on a collective basis and may not exceed one percent of the profits derived from use of such works.

Article 29. Transfer of Copyright by Succession

Copyright shall be inherited.

The right of authorship, the right to a name and the right to protection of the author's reputation shall not be inherited. The author's heirs may protect the said rights. These powers of the heirs shall not be limited by any term.

If the author has no heirs, the said rights shall be protected by an expressly authorized agency of the Kyrgyz Republic.

Article 30. Transfer of Property Rights. Author's Agreement

1. The property rights indicated in Article 16 of this Law may be transferred only pursuant to an author's agreement with the exceptions provided by Articles 18-26 of this Law.

Property rights may be transferred pursuant to the author's agreement on the transfer of the exclusive or non-exclusive rights.

2. An author's agreement on the transfer of the exclusive rights shall permit uses of the works by a certain way and to such an extent as established by the said agreement only to the assignee and shall give such person the right to prohibit such uses of the said work by other persons.

The right to prohibit uses of a work by other persons may be exercised by the author if the person to whom exclusive rights have been transferred does not protect such right.

3. An author's agreement on the transfer of the non-exclusive rights shall permit the user to use the work on the same footing with the holder of exclusive rights that has transferred such rights and/or other persons that have won permission to use the said work in the same manner.

4. The rights transferred pursuant to an author's agreement shall be deemed non-exclusive unless otherwise expressly indicated in such an agreement.

Article 31. Terms and Conditions of Author's Agreement

1. An author's agreement must specify the following:

1) the ways in which the work may be used (specific rights transferred under such agreement);

- 2) the period and territory for which rights are transferred;
- 3) the amount of royalties and/or the procedure for determining the same for each way of using said work, the procedure and time frames for payment of such royalties; and
- 4) other terms and conditions as may be deemed essential to said agreement by the parties thereto.

Should an author's agreement not specify the term for which rights are transferred, such agreement may be terminated by the author five years from the date of its conclusion by notifying the user thereof six months prior to such termination.

Should an author's agreement not specify the territory for which rights are transferred, the validity of the rights transferred thereunder shall be limited to the territory of the Kyrgyz Republic.

2. All rights to use a work that have not been directly transferred under an author's agreement shall be deemed as not transferred.

Such rights to uses a work that were not known as of the moment of conclusion of an author's agreement may not constitute the subject thereof.

3. Royalties shall be determined in an author's agreement as a percentage of income from the appropriate way of using the work in question or, if this is impossible to do due to the nature of such work or the peculiarities of its use, as an amount fixed in the said agreement or otherwise.

The minimum rates of royalties shall be set forth by the Government of the Kyrgyz Republic. The minimum amount of royalties shall be indexed simultaneously with the indexation of minimum wages.

If an author's agreement on the publication or other reproduction of a work defines royalties as a fixed amount, such agreement must specify the maximum print-run of such work.

4. The rights transferred pursuant to an author's agreement may be assigned, fully or in part, to other persons only if this is expressly indicated by such agreement.

5. Rights to use such works that may be created by an author in the future cannot be subject of an author's agreement.

6. The condition of an author's agreement limiting in the future the author in respect to the creation of works on the particular subject or in the particular field shall be invalid.

7. The terms and conditions of an author's agreement contradicting the provisions of this Law shall be invalid.

8. A party which failed to perform or improperly performed an obligation under author's agreement, must indemnify the damages inflicted to the other party.

Article 32. Form of Author's Agreement

1. An author's agreement must be made in writing. An author's agreement on use of a work in periodicals may be made verbally.

2. In the cases of sale of copies of computer softwares and databases and granting an access thereto to general users, the special procedure for making agreements may be used as set forth by the legislative acts of the Kyrgyz Republic.

3. Subject to the agreement between the parties, the author's agreement may be registered in the Kyrgyzpatent. Registration fees shall be charged, which amount the payment procedure shall be established by the Government of the Kyrgyz Republic.

The Kyrgyzpatent shall draft the approximate author's agreements.

Article 33. Author's Agreement for Order

1. Pursuant to an author's agreement for an order, the author shall undertake to create a work in accordance with the terms and conditions of such an agreement and deliver such work to the customer.

2. The customer shall be obligated to pay an advance to the author against such royalties as may be determined by the agreement. The amount of such advance and the procedure and schedule for paying the same shall be set forth in the agreement as agreed upon by the parties thereto.

3. Should the author fail to submit an ordered work in accordance with the terms and conditions of an agreement for an order, he/she shall be obligated to compensate the actual damage caused to the customer.

Section III Neighboring Rights

Article 34. Scope of Application of Neighboring Rights

1. The rights of a performer shall be recognized as belonging thereto pursuant to this Law in the events as follows:

- 1) The performer is a citizen of the Kyrgyz Republic;
- 2) The performance or production has first taken place on the territory of the Kyrgyz Republic;

3) The performance or production has been recorded on a phonogram to be protected pursuant to the provisions of paragraph 2 of this Article; and

4) The performance or production not recorded on a recording has been included in a radio or television broadcast or in a cable program to be protected pursuant to the provisions of paragraph 3 of this Article.

2. The rights of a phonogram manufacturer shall be recognized as belonging thereto pursuant to this Law in the events as follows:

1) The phonogram manufacturer is a citizen of the Kyrgyz Republic or a legal person with a registered address on the territory of the Kyrgyz Republic; and

2) The phonogram has been first published in the territory of the Kyrgyz Republic. The phonogram shall be also considered published for the first time on the territory of the Kyrgyz Republic, if within 30 days after the date of publication outside the Kyrgyz Republic it was published on the territory of the Kyrgyz Republic.

3. The rights of a radio or television broadcasting or cable organization shall be recognized as belonging thereto pursuant to this Law if its official address is in the territory of the Kyrgyz Republic and it broadcasts by means of transmitters located therein.

The neighboring rights of individuals and legal entities shall be recognized on the territory of the Kyrgyz Republic in compliance with the international agreements of the Kyrgyz Republic.

Article 35. Objects of Neighboring Rights

The neighboring rights shall expand to stagings, performances, phonograms, programs of air broadcasting and cable transmission, irrespective of their purpose, content and merits, as well as the form of expression thereof.

Article 36. Subjects of Neighboring Rights

1. The subjects of neighboring rights shall include performers, phonogram manufacturers and radio and television broadcasting and cable TV organizations.

2. The phonogram manufacturer or the radio or television broadcasting cable TV organization shall exercise its rights as set forth in this Section, to the extent of such rights as have been received under the agreement with the performer and author of the work recorded on such recording or broadcast by cable.

Permission to use a production that has been received from the director/producer of the play shall not include the need to obtain permission from the other performers involved in such production, as well as from the author of the work performed.

3. The performer shall exercise such rights as are set forth in this Section provided the rights of the author of the performed work are observed.

4. No formalities shall be required to be observed for neighboring rights to be arisen and exercised. The producer of a recording and performer may, in order to announce their rights, use the neighboring rights protection sign to be affixed to each copy of such phonogram and/or on each case containing the same and consisting of three components:

- a Latin letter R in a circle - R;
- the name of the holder of exclusive neighboring rights; and
- the year of the first publication of the recording.

Article 37. Performer's Rights

1. With the exception of cases described by this Law, the performer shall enjoy the following exclusive rights to his/her performance or production:

- Right to a name;
- Right to protection for the performance or production from any distortion or other infringement that may cause harm to the honor and dignity of the performer; and
- Right to use the performance or production in any form, including the right to royalties for each way of using such performance or production.

2. The exclusive right to use a performance or production shall mean the right to perform or authorize the performance of the following actions:

- 1) Broadcasting or communication to general public by cable of a performance or staging, if the performance or staging used for such program have not been broadcasted before or are not recorded;
- 2) Recording of the previously unrecorded performance or production;
- 3) Reproduction of a recording of the performance or production;
- 4) Radio, television broadcasting or transmission by cable of a recording performance or production in the event such recording has originally been produced not for commercial purposes; and

5) Leasing of a phonogram manufactured for commercial purposes, which includes the performance or staging, where the performer participates. Such right upon conclusion of an agreement for the recording of such performance or staging on a phonogram shall be transferred to the phonogram manufacturer; in such case the performer shall retain the right for remuneration for leasing of copies of such phonogram (Article 39 of this Law).

3. The exclusive right of the performer as provided by subparagraph 3 of paragraph 2 of this Article shall not be extended to events as follows:

- The original recording of a performance or staging is made for the same purposes for which the performer's consent has been obtained in recording of such performance or staging;

- Reproduction of a performance or staging is carried out for the same purposes for which the consent of a performer upon recording or performance has been obtained; and

- Reproduction of a performance or staging is carried out for the same purposes as for which the recording has been made pursuant to the provisions of Article 42 of this Law.

4. The authorizations indicated in paragraph 2 of this Article shall be issued by the performer or, with respect to a performance of a collective of performers, by the head of such collective through the conclusion of a written agreement with the user.

5. The permission indicated in subparagraphs 1), 2) and 3) of paragraph 2 of this Article for subsequent broadcastings of a performance or staging, to the making a recording for broadcasting and to the reproduction of such recording by broadcasting or cable organizations shall not be required if they are expressly envisaged by the performer's agreement with the air or cable broadcasting organization. The amount of royalties to the performer for such use shall also be fixed in such agreement.

6. The conclusion of an agreement between the performer and the producer of an audio-visual work to produce such audiovisual work shall entail the granting by such performer the rights to perform such actions as are indicated in subparagraphs 1), 2), 3) and 4) of paragraph 2 of this Article.

Granting of such rights by the performers shall be limited to use of an audio-visual work and unless otherwise provided in the agreement shall not include the rights to separate use of the sound and images fixed in such audio-visual work.

7. The exclusive rights of a performer provided by point 2 of this Article may be transferred under an agreement to other persons.

8. The agreement on transfer of exclusive rights may be registered in the Kyrgyzpatent. Registration fees shall be collected for the registration, which amount and procedure of payment shall be established by the Government of the Kyrgyz Republic.

Article 38. Rights of Phonogram Manufacturer

1. With the exception of cases provided for by this Law the phonogram manufacturer shall enjoy the exclusive rights to use such phonogram in any form, including the right to receive royalties for each way of using such phonogram.

2. The exclusive right to use a phonogram shall mean the right to perform or permit the performance of the following actions:

1) Reproduction of the phonogram;

2) Transfer or other reworking of the phonogram;

3) Distribution of copies of the phonogram, i.e. their sale, lease, etc.; and

4) Import of copies of the phonogram for the purpose of distribution, including copies produced with the permission of the phonogram manufacturer.

3. If the copies of a legitimately published phonogram have been put into circulation through their sale, they may be further distributed without the consent of a phonogram manufacturer and without payment of royalties.

The right to distribute copies of a phonogram by leasing them shall belong to the manufacturer of such phonogram regardless of the right of ownership to such copies.

4. The exclusive rights of the phonogram manufacturer provided by paragraph 2 of this Article may be transferred under an agreement to other persons.

5. The agreement on transfer of exclusive rights may be registered in the Kyrgyzpatent. Registration fees shall be collected for the registration, which amount and procedure of payment shall be established by the Government of the Kyrgyz Republic

Article 39. Use of a Phonogram Published for Commercial Purposes

Without Consent of Phonogram Manufacturer and
Performer

1. As an exception to the provisions of Articles 37 and 38 of this Law, the following actions shall be allowed without the consent of the phonogram manufacturer published for commercial purposes and of the performer recorded on such recording, but with payment of royalties:

- 1) Public performance of such phonogram;
- 2) Broadcasting of such recording; and
- 3) Transmission of the phonogram for general public by cable.

2. Royalties provided by paragraph 1 of this Article shall be collected, distributed and paid out by an organization managing the property rights of phonogram manufacturers and performers on a collective basis (Article 44 of this Law) pursuant to an agreement among such organizations. Unless otherwise provided by such an agreement, the said royalties shall be split equally between the phonogram manufacturer and the performer.

3. The amount of royalties and the terms and conditions of payment thereof shall be determined by an agreement between the user of a phonogram or associations of such users, on the one hand, and organizations managing the property rights of phonogram manufacturers and performers, on the other hand, or, should the parties fail to reach such agreement, by an expressly authorized agency of the Kyrgyz Republic.

The amount of royalties shall be established for each way of using the phonogram.

4. The phonogram users must submit to the organization specified in point 2 of this Article with programs containing precise data about the number of times of prior usage of a recording, as well as the other data and documents required for collection and distribution of royalties.

Article 40. Rights of Broadcasting Organizations

1. With the exceptions provided by this Law, radio or television broadcasting organizations shall enjoy the exclusive rights to use programs in any form and authorize their use, including the right to receive royalties for granting such authorization.

2. The exclusive right to authorize use of a program shall mean the right of a broadcasting organization to permit the following actions:

- 1) Simultaneous air broadcast of such program by the other broadcasting organization;
- 2) Rendering of such program to general public by a cable;
- 3) Recording of such program;
- 4) Reproduction of a recording of such program;
- 5) Communication of such program to general public in places with for fee admission.

3. The exclusive right of a broadcasting organization provided by subpoint 4 of point 2 of this Article, shall not expand on the following cases:

- The recording of the program has been made with the consent of such broadcasting organization;
- The program is reproduced for the same purposes as it has been recorded pursuant to the provisions of Article 42 of this Law.

Article 41. Right of Cable TV Organization

1. With the exceptions provided by this Law, cable TV organizations shall enjoy exclusive rights to use its program in any form and authorize the use of such program, including the right to receive royalties for granting such authorization.

2. The exclusive right to authorize use of a program shall mean the right of a cable TV organization to permit the following actions:

- 1) Simultaneous communication to general public by cable of such program by another cable TV organization;
- 2) Broadcasting of such program;
- 3) Recording of such program;
- 4) Reproduction of a record of such program; and
- 5) Bringing such program to general public in places with a for fee admission.

3. The exclusive right of a cable organization provided by subpoint 4 of point 2 of this Article shall not apply to cases as follows:

- The program has been recorded with the consent of the cable TV organization;
- The program is reproduced for the same purposes for which it has been recorded according to the provisions of Article 42 of this Law.

Article 42. Restriction of Rights of Performer, Phonogram

Manufacturer, or Radio and Television Broadcasting
or Cable TV Organization

1. As an exception to the provisions of Articles 37-41 of this Law, a performance, production, broadcast, cable transmission and their recordings may be used and recordings reproduced without the consent of the performer, phonogram manufacturer and radio and television broadcasting for cable TV organization and without payment of royalties:

- 1) In order to include short excerpts from the performance, staging, phonogram, air broadcast or cable transmission;
- 2) Exclusively for the purposes of instruction or research;
- 3) In order to quote short excerpts from such performance, production, recording, broadcast or cable transmission provided that such citation is done for information purposes; in such case any use by radio and television broadcasting or cable TV organization of copies of a phonogram published for commercial purposes shall be allowed for air broadcasting or cable transmission only in compliance with the provisions of Article 39 of this Law; and
- 4) In other cases set forth by the provisions of Articles 18-25 of this Law concerning restrictions on the property rights of authors of works of literature, science and the arts.

2. As an exception to provisions of Article 37-41 of this Law, a performance, production, broadcast, cable transmission and their recording may be used and a recording reproduced for personal requirements without the consent of the performer, phonogram manufacturer, and radio and television broadcasting or cable TV organization and without payment of royalties. A recording may be reproduced provided royalties are paid in accordance with Article 26 of this Law.

3. The provisions of Articles 37, 38, 40 and 41 of this Law in respect to obtaining of permission from the performer, phonogram manufacturer or radio and television broadcasting organization to make, for short-term use, recordings of a performance, production or program, reproduce such recordings and reproduce a recording published for commercial purposes if such recording for short-term use or reproduction is done by a radio-television broadcasting organization using its own equipment and for its own program shall not be applied based upon the following terms and conditions:

1) the broadcasting organization has obtained advance permission to broadcast the staging, performance or program with respect to which the recording for short-term use is made or such recording is reproduced in accordance with the provisions of this paragraph; and

2) Such phonogram is destroyed by such deadline as is established by recordings of works of literature, science and the arts made for short-term uses by the broadcasting organization pursuant to the provisions of Article 24 of this Law, with the exception of a single copy which may be kept in official archives based exclusively on its documentary nature.

4. The restrictions provided by this Article shall apply without detriment to normal uses of a recording, performance, production, broadcast or cable transmission and their recordings, as well as the works of literature, science and the arts included therein, and without any infringement of the legitimate interests of the performer, phonogram manufacturer, radio and television broadcasting or cable TV organization and the authors of the said works.

Article 43. Effective Terms of Neighboring Rights

1. The rights provided in this Section for the performer shall remain effective for 50 years after the first performance or staging.

The rights of the performer to the name and to the protection of performance or staging from any deviation or any other infringement set forth in Article 37 of this Law are protected termlessly.

2. The rights provided by this Section in respect to the phonogram manufacturer shall remain in effect for 50 years after the first publication of such phonogram or for 50 years after its first recording if such recording has not been published during such term.

3. The rights provided in this Section for radio and television broadcasting organizations shall remain effective for 50 years after the first broadcast by such organization.

4. The rights provided for by this Section for cable TV organizations shall remain valid for 50 years after the first cable transmission by such organization.

5. The terms provided for by paragraphs 1, 2, 3, and 4 of this Article shall begin to run from January 1 of the year following that in which the legal event which serves the grounds for the commencement of such term took place.

6. In the event the performer was repressed and then rehabilitated after his death, the term of protection of his/her rights provided by this Article shall take effect as of January 1 of the year following the year of rehabilitation.

In the event the performer worked during the World War II or participated in it, the term of protection of his/her rights provided by this Article shall be extended for 4 years.

7. The heirs (in the case of legal entities - the successors) of a performer, phonogram manufacturer, and radio and television broadcasting or cable TV organization shall inherit the right to permit the broadcast cable transmissions and the right to receive royalties for the remaining period of such term as specified in paragraphs 1, 2, 3, 4 of this Article.

Collective Management of Proprietary Rights

Article 44. Purposes of Collective Management of Property Rights

1. In order to secure the property rights of authors, performers, phonogram manufacturers and other holders of copyright and neighboring rights in cases where it is difficult to exercise practically such rights individually (in cases of a public performance, including that on the radio and television, or reproduction of a work by way of mechanical, magnetic or other recording, duplication, etc.), organizations may be established to manage the proprietary interests of the said persons on a collective basis.

Such organizations shall be established directly by the holders of a copyright and neighboring rights and act within the powers vested pursuant to a charter approved in the manner set forth by legislation. The Charter of the organization which exercises collective management of property rights, must contain the provisions which comply with the requirements of this Law.

2. Either individual organizations with respect to different rights and different categories of right holders or organizations managing different rights in the interest of different categories of right holders or a single organization simultaneously managing copyright and neighboring rights may be established.

Article 45. Organizations Managing Property Rights on Collective Basis

1. Organizations managing property rights on the collective basis shall be created directly by the holders of the copyright and neighboring rights of their members, based on their membership in such an organization, or in the written agreements, and also on the corresponding agreements with the foreign organizations, which manage the similar rights.

Any author, his heir or another holder of copyright or neighboring rights protected pursuant to Section III of this Law, may transfer under an agreement the exercise of his/her proprietary rights to such organization, and the organization shall be obligated to assume the exercise of such rights on a collective basis if the management of such category of rights is among the statutory activities of such organization.

An organization managing property rights on a collective basis may not be engaged in commercial activities or use works or objects of neighboring rights which have been received for management on a collective basis.

2. An organization managing property rights on a collective basis shall issue licenses to users for the appropriate ways of using works and objects of neighboring rights. The terms and conditions of such licenses must be the same for all users in the same category. Such organizations may not deny license to a user without substantial grounds.

Such licenses shall permit all works and objects of neighboring rights to be used in any way provided therein and shall be granted on behalf of all holders of copyright and neighboring rights, including those that have not delegated powers to the organization pursuant to point 1 of this Article.

Registration fees shall be charged for the registration of licenses by the Kyrgyzpatent, in the amounts and in compliance with the procedure established by the Government of the Kyrgyz Republic.

3. An organization managing property rights on a collective basis may keep unclaimed royalties, including the same in amounts to be distributed or by using it otherwise in the interests of the holders of copyright and neighboring rights represented thereby during three years from the date the royalties have been deposited on the account of such organization.

Article 46. Functions and Duties of Organizations Managing Property Rights on a Collective Basis

1. An organization managing property rights on a collective basis shall perform the following functions on behalf of the holders of copyright and neighboring rights represented thereby and based on the granted by them powers:

agreeing upon the amount of royalties and other terms and conditions upon which licenses are granted;

issuing licenses to users to exercise the rights under the management of such an organization;

agreeing with the users the amount of royalties in the event such organization is engaged in collection of royalties without issuing a license (Article 26 and points 2 and 3 of Article 29 of this Law);

collecting royalties as provided by licenses and/or royalties as provided by paragraph 3 of this Article;

distributing and paying royalties out collected to the holders of copyright and neighboring rights represented by such organization;

exercising any legal actions as may be necessary to protect the rights under the management of such an organization;

and

performing any other activities in accordance with powers granted by the holders of copyright and neighboring rights.

2. An organization managing property rights on a collective basis shall carry out the following duties in the interests of holders of copyrights and neighboring rights:

to use royalties collected exclusively for distribution and paying out to the holders of copyright and neighboring rights. At the same time, the organization may deduct from collected royalties the amounts to cover expenses associated with collecting, distributing and paying out such royalties, as well as amounts to be allocated to the special funds established by the organization by the decision of its members;

to distribute and pay regularly the collected amounts of royalties with the deduction of the amounts indicated in paragraph 2 of this point proportionally to the actual use of works and objects of neighboring rights;

to submit simultaneously with paying royalties to the holders of the copyright and neighboring rights reports containing the data as to use their rights.

3. An organization managing property rights on a collective basis may keep unclaimed royalties, including the same in amounts to be distributed or by using it otherwise in the interests of the holders of copyright and neighboring rights represented thereby during three years from the date the royalties have been deposited on the account of such organization.

2. Holders of copyright and neighboring rights who did not authorize the organizations to collect royalties in compliance with paragraph five of point 1 of this Article, shall have the right to demand that the organization pay them the royalties due in accordance with the distribution as well as to exclude their works and objects of neighboring rights from licenses to be granted by this organization to users.

Article 48. Control over Activities of Organizations Managing Property Rights on Collective Basis

1. Organization managing the property rights on the collective basis shall submit to the Kyrgyzpatent the following data on activities thereof:

on alterations introduced in the Charter or other incorporation documents of such organization;

on bilateral and multilateral agreements entered into by such organization with the foreign organizations, managing similar rights;

on decisions of the joint meetings in respect to the amounts of royalties and subtractions;

on the annual balance, annual report and results of auditing;

on persons, authorized to represent the organization;

other data, necessary for monitoring of conformity of the activities of the organization with this Law.

2. The Kyrgyzpatent may demand an additional information from such organization, which is necessary for monitoring of conformity of the activities of the organization with this Law, legislation on public associations, or other legislation, as well as the charter of the organization.

Section V Protection of copyright and Neighboring rights

Article 49. Violations of Copyright and Neighboring rights. Counterfeit Copies of a Work and Recordings

1. Violations of copyright and neighboring rights provided by this Law shall be subject to civil, criminal and administrative liability pursuant to legislation of the Kyrgyz Republic.

2. An individual or a legal person failing to comply with the requirements of this Law shall be a violator of copyright or neighboring rights.

3. Copies of a work or a phonogram, which production or distribution involves a violation of copyright or neighboring rights, shall be counterfeit.

4. Copies of works and phonograms protected in the Kyrgyz Republic pursuant to this Law which are imported into the Kyrgyz Republic without the consent of the holders of copyright and neighboring rights from a state in which such works or recordings have never been protected or ceased to be protected, shall also be counterfeit.

Article 50. Protection of Copyright and Neighboring Rights

1. The holders of the exclusive copyright and neighboring rights may demand that violators shall:

1) recognize such rights;

2) restore the status as existed before the violation and discontinue actions violating their rights or creating a threat of such violation;

- 3) indemnify the losses;
- 4) recover the profits received by the violator as a result of the violation of copyright and neighboring rights instead of the indemnification of losses;
- 5) pay compensation in the amount from 10 to 20 000 minimum monthly salaries set forth by legislation of the Kyrgyz Republic to be determined by a court or an arbitration tribunal instead of indemnification of losses or recovery of profits; and
- 6) take other measures provided by legislative acts and related to protection of their rights.

Measures specified in subpoints 3, 4 and 5 of this point shall apply by the option of the holder of copyright and neighboring rights.

2. Holders of the exclusive copyright and neighboring rights may apply for protection of their rights, in accordance with the established procedure, to a court, an arbitration tribunal or a third party's arbitration tribunal in accordance with the scope of competence thereof.

3. The counterfeit copies of works or phonograms shall be subject to mandatory confiscation in compliance with the decision of the court or a single judge, or by the decision of the arbitration tribunal. The confiscated counterfeit copies of works or phonograms shall be subject to demolition, except the cases when such copies were transferred to the holder of the copyright or neighboring rights, by his request. The court or a single judge, or an arbitration tribunal may rule on confiscation of the materials and the equipment used in manufacturing of the counterfeit copies of works or phonograms.

4. The author or the owner of the neighboring rights may demand in the court that the violator should perform the following actions:

introduce corresponding alterations in the work and publish in the press or otherwise inform on restoration of the violated right;

prohibit the issuance of the work or perform the demands on termination of distribution of this work, and confiscation of the issued copies;

material compensation of moral damage, pursuant to the effective legislation.

5. By the demand of the author or neighboring rights owners, a person, guilty of intentional destruction or destruction by negligence of the original of a work of fine art, manuscript or final variant of the audio-visual work (negative, original recording), shall be obliged to indemnify material and moral damage, pursuant to requirements of points 1, and 4 of this Article.

Section VI Final provisions

Article 51. Provisional Remedies in Copyright and Neighboring Rights Claims

1. The court or a single judge, as well as the arbitration tribunal may rule to prohibit the defendant or person believed with sufficient grounds to be a violator of copyright or neighboring rights, from performing certain actions (production, reproduction, sale, leasing, import and other use provided by this Law, as well as transportation, storage or possession with the purpose of releasing into business circulation of copies of works or phonograms assumed to be counterfeit).

2. The court or a single judge, as well as the arbitration tribunal may rule to arrest and confiscate all copies of works or phonograms believed to be counterfeit, as well as materials and equipment meant for their production and reproduction.

Should there be sufficient data as to violations of copyright or neighboring rights, the investigation body, interrogator, court or a single judge must take measures to locate and seize the copies of works or phonograms believed to be counterfeit, as well as the materials and equipment meant for their production and reproduction, including the withdrawal and transferring them to official custody.

President of the Kyrgyz Republic A.Akaev