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William Scott Goldman

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# Berne-ing the Soviet Copyright Codes: Will the U.S.S.R. Alter Its Copyright Laws to Comply with the Berne Convention?

## I. Introduction

On April 19, 1989, the Soviet Union announced its intention to join the Berne Convention for the Protection of Literary and Artistic Works.<sup>1</sup> Vladimir F. Petrovsky, the Soviet Deputy Foreign Minister, told the London Information Forum of the Conference on Security and Cooperation in Europe, "I can inform you that our country is finalizing the necessary preparatory work which will soon enable us to accede to the Berne Copyright Convention."<sup>2</sup>

The Soviet Union reaffirmed its intentions on March 6, 1990. Soviet President Mikhail S. Gorbachev issued a directive urging the passage of new artistic property legislation that will enable the U.S.S.R. to accede to the Berne Convention.<sup>3</sup>

The Soviet Union's announcement is the latest development in a period of increasing international cooperation in the field of copyright. As modern communication services have spread, national boundaries have faded.<sup>4</sup>

International copyright organization and cooperation are vital in a post-industrial world. Post industrial society is organized around the free flow of information and the post-industrial economy relies on information, data, and service-based activities.<sup>5</sup> Given the vital importance of the free flow of information in the modern world, a unified international copyright code is of major importance.

In recent years, the world has been moving toward the ideal of

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1. Berne Convention for the Protection of Literary and Artistic Works of September 9, 1886 [hereinafter Berne Convention], completed at Paris on May 4, 1896, revised at Berlin on November 13, 1908, completed at Berne on March 20, 1914, and revised at Rome on June 2, 1928, at Brussels on June 26, 1948, at Stockholm on July 14, 1967, and at Paris on July 24, 1971, reprinted in 4 M. NIMMER, NIMMER ON COPYRIGHT, at app. 27 (1988) [hereinafter M. NIMMER].

2. N.Y. Times, April 20, 1989, at D7, col. 4.

3. Telephone interview with Eric J. Schwartz, Policy Planning Advisor for The Library of Congress, Office of the Register of Copyrights, March 29, 1990.

4. For an interesting discussion of this phenomenon, see E. PLOMAN & L. HAMILTON, COPYRIGHT: INTELLECTUAL PROPERTY IN THE INFORMATION AGE 203 (1980) [hereinafter E. PLOMAN & L. HAMILTON].

5. See *id.* at 210.

one all-embracing international copyright agreement. The two multi-lateral agreements which exist today are the Berne Convention and The Universal Copyright Code (U.C.C.).<sup>6</sup> While the former was established in Europe in the nineteenth century, the latter was largely organized by the United States, in the 1950's.<sup>7</sup> Historically, all major European nations have belonged to the Berne Union while both the United States and the U.S.S.R. have refused to join.<sup>8</sup> Rather than acceding to the Berne Convention, the United States joined the U.C.C. in 1955, and the Soviet Union followed suit in 1973.<sup>9</sup>

On March 1, 1989, however, the United States acceded to the Berne Convention<sup>10</sup> after having modified its copyright code.<sup>11</sup> As a result, the Soviet Union was one of the only major countries which did not belong to the Berne Union. One month later, the U.S.S.R. announced its intention to join Berne.<sup>12</sup>

In acceding to the Berne Convention, the United States brought the world much closer to realizing the ideal of a single copyright agreement.<sup>13</sup> Soviet membership in the Berne Union would have an equally tremendous impact on world copyright relations in the information age.

What changes need to be made in the Soviet copyright codes in order to bring them into compliance with the provisions of Berne? And is it likely that these changes will be accomplished in the near future? This comment will attempt to answer these questions. While these issues have already been addressed in regard to the United States,<sup>14</sup> nothing similar has yet been attempted for the Soviet Union. In light of the U.S.S.R.'s announcement of its intent to accede to the Berne Convention, this analysis is now more timely than ever.

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6. The Universal Copyright Code, September 6, 1952 [hereinafter U.C.C.]. 4 M. NIMMER, *supra* note 1, at app. 25.

7. The other charter members included, Andorra, Chile, Costa Rica, Democratic Kampuchea, Haiti, Israel, Laos, Monaco, Pakistan, and Spain. *Id.* at app. 21.

8. Besides the U.S.S.R., The Republic of China is the only other notable Berne exception. *See* L.A. Times, April 19, 1989, at A3, col. 1.

9. For a comprehensive historical treatment, *see* J. BAUMGARTEN, U.S.-U.S.S.R. COPYRIGHT RELATIONS UNDER THE UNIVERSAL COPYRIGHT CONVENTION (1973) [hereinafter, J. BAUMGARTEN].

10. The United States became the eighty-first member-nation of the Berne Union. *See* N.Y. Times, *supra* note 2, at D7, col. 4.

11. *See* Berne Convention Implementation Act of 1988, Pub. L. No. 100-568, 102 Stat. 2853 (1988).

12. *See* N.Y. Times, *supra* note 2, at D7, col. 4.

13. *See* E. PLOMAN & L. HAMILTON, *supra* note 4, at 205.

14. Gabay, *The United States Copyright System and the Berne Convention*, 26 BULL. COPYRIGHT SOC'Y 202 (1979).

## II. The Berne Convention

### A. *Historical Background*

The Berne Convention for the Protection of Literary and Artistic Works played a major role in the development of international copyright protection. Before the nineteenth century, international communication was limited. As a result, copyright was chiefly a national concern.<sup>15</sup> During the nineteenth century, however, learning spread to a growing bourgeois class with the introduction of compulsory primary education in several countries.<sup>16</sup> Almost overnight, publishing was transformed from a craft into an industry.<sup>17</sup> Bookstores and libraries became commonplace.<sup>18</sup>

This period also saw increased freedom of expression, the learning of foreign languages, and the growth of international trade, communications and travel.<sup>19</sup> Nations became increasingly concerned with protecting their domestic works abroad.<sup>20</sup> The first international copyright treaties were negotiated. Bilateral in scope, these agreements failed to fully prevent piracy as protection was limited to strict reciprocity only.<sup>21</sup>

In an effort to remedy this problem, France issued a landmark decree in 1852 which extended copyright protection to all works, regardless of their place of publication or nationality of author.<sup>22</sup> Later heralded as the genesis of international copyright protection, the French Decree of 1852 sparked discussion of uniform international copyright legislation.<sup>23</sup>

The first International Congress of Authors and Artists met in Brussels in 1858. The international copyright conferences held in Berne between 1884 and 1886 were the culmination of these early efforts.<sup>24</sup> In 1887, the final draft of the Berne Convention for the Protection of Literary and Artistic Works was signed,<sup>25</sup> ushering in a new era of international copyright protection in which individual nations were willing to sacrifice some of their own interests for the good of the international order.<sup>26</sup>

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15. See S. RICKETSON, *THE BERNE CONVENTION FOR THE PROTECTION OF LITERARY AND ARTISTIC WORKS: 1886-1986*, at 6 (1987) [hereinafter S. RICKETSON].

16. For relevant background discussion, see E. PLOMAN & L. HAMILTON, *supra* note 4, at 18.

17. *Id.*

18. *Id.*

19. *Id.*

20. *Id.*

21. See S. RICKETSON, *supra* note 15, at 19.

22. See *id.*

23. See E. PLOMAN & L. HAMILTON, *supra* note 4, at 20.

24. See generally, S. RICKETSON, *supra* note 15, at 5-8.

25. The original signatories to the Berne Convention were: Belgium, France, Germany, Great Britain, Haiti, Italy, Spain, Switzerland, Tunisia.

26. See E. PLOMAN & L. HAMILTON, *supra* note 4, at 25.

Since then, the Convention has undergone several revisions,<sup>27</sup> and virtually all major nations today have acceded to it.<sup>28</sup> In retrospect, few international agreements of any kind have matched the Berne Convention's permanence or stability.

### B. Major Provisions

The Convention's first twenty articles deal with substantive law while articles 21-38 are concerned with the administration and structure of the Berne Union. Only the first twenty articles are of concern here. They may be divided into five categories:

1. *Supremacy*.—According to the principle of assimilation, each member-nation is to protect foreign works and authors in the same manner as it protects national works and authors. The Convention's goal is to provide all authors with the most comprehensive set of rights that may possibly be granted.<sup>29</sup> Accordingly, member nations must grant protection at a level equal to or above the minimum standard which the Convention provides.<sup>30</sup> And, unless a given article specifically permits national discretion,<sup>31</sup> Convention rules are to have primacy over national legislation.<sup>32</sup>

2. *Works Protected*.—Although entitled the "Convention for the Protection of Literary and Artistic Works," the Berne Convention protects "every production in the literary, scientific and artistic domain, whatever may be the mode or form of expression."<sup>33</sup> Coverage extends to unpublished works in addition to published ones.<sup>34</sup> The only stipulation is that they all must be original intellectual creations, clearly distinguishable from derivative works.<sup>35</sup>

3. *Term of Protection*.—While each Berne nation is free to choose its own term of protection, each country must agree, at minimum, to protect works for the author's lifetime plus fifty years.<sup>36</sup>

4. *Formalities*.—Copyright protection is to be granted automatically, obviating the need for registration or notice.<sup>37</sup>

5. *Exclusive Rights*.—Authors and their assignees have the sole right to authorize any modifications made to their creative

27. For a history of Convention revisions, see *supra* note 1.

28. See *supra*, note 8.

29. See Berne Convention, *supra* note 1, at art. 5(1).

30. See *id.* at art. 5(2) and art. 6(1).

31. See *id.* at art. 19 and art. 20.

32. See, e.g., *id.* at art. 2(4); art. 2(7); art. 2bis (1-2); art. 7(4); art. 10(2); art. 10bis; art. 14bis(3); art. 14ter(2); art. 16(3).

33. *Id.* at art. 2(1).

34. *Id.* at art. 3(1)(a) and art. 3(3).

35. See *id.* at art. 2(3); art. 14bis(1); art. 14ter(1).

36. *Id.* at art. 7(1).

37. *Id.* at art. 5(2).

works.<sup>38</sup> Exclusive rights exist for most compositions, such as, books, pamphlets, dramatic works, musical works, cinematographic works, paintings, architecture, and sculpture.<sup>39</sup> Copies which violate any of the Convention's exclusive rights provisions are subject to seizure.<sup>40</sup>

For a smaller class of works, individual member-nations are free to establish their own exceptions or even to deny exclusive rights altogether.<sup>41</sup> This group includes government texts, political speeches, applied art and industrial designs, quotations and reproductions, and works used for teaching purposes or news reporting.

### III. Soviet Copyright Law

#### A. Historical Background

The development of Soviet copyright law has been marked by periods of isolation and eras of international involvement. Before the Bolshevik Revolution, Russia actively engaged in international copyright relations.<sup>42</sup> In 1861, Russia took part in one of the world's first international copyright agreements when it signed a reciprocal protection pact with France.<sup>43</sup> Though the treaty had little significance in terms of the rights protected, it had great symbolic importance.<sup>44</sup>

In the late 1880's and early 1890's there was discussion regarding the possibility of Berne Union membership.<sup>45</sup> Proponents argued that Russia should not remain outside of Western European intellec-

38. *See, e.g., id.* at art. 8:

Authors of literary and artistic works protected by this Convention shall enjoy the exclusive rights of making and of authorizing the translation of their works throughout the term of protection of their rights in the original works.

*Id.*

*See also id.* at art. 11bis:

(1) Authors of literary and artistic works shall enjoy the exclusive right of authorizing:

(i) the broadcasting of their works or the communication thereof to the public by any other means of wireless diffusion of signs, sounds or images;

(ii) any communication to the public by wire or by rebroadcasting of the broadcast of the work, when this communication is made by an organization other than the original one;

(iii) the public communication by loudspeaker or any other analogous instrument transmitting, by signs, sounds or images, the broadcast of the work . . . .

*See also id.* at art. 3(3); art. 6bis(1); art. 8; art. 9(1); art. 11(i); art. 11(2); art. 11ter(1); art. 11ter(2); art. 12; art. 14; art. 14; art. 14ter(1).

39. *Id.* at art. 2(1).

40. *Id.* at art. 16.

41. *See id.*

42. M. NEWCITY, COPYRIGHT LAW IN THE SOVIET UNION 3-32 (1978).

43. For a good general overview and a particularly enlightening analysis, *see* M. BOGUSLAVSKY, COPYRIGHT IN INTERNATIONAL RELATIONS: INTERNATIONAL PROTECTION OF LITERATURE AND SCIENTIFIC WORKS 59 (1979) [hereinafter, COPYRIGHT IN INTERNATIONAL RELATIONS].

44. *See id.*

45. M. NEWCITY, *supra* note 42, at 13.

tual life, since Union membership would benefit the development of Russian science, literature, and education.<sup>46</sup> Isolation prevailed, however, as publishers and booksellers, interested in retaining complete freedom of translation in order to ensure low prices and the wide dissemination of books domestically, successfully argued against joining Berne.<sup>47</sup>

In the years preceding the first World War, Russia broke from her isolation and signed four bilateral treaties.<sup>48</sup> There were even hints that she would accede to the Berne Convention.<sup>49</sup> Once again, however, Russia withdrew from international involvement, allowing the treaties to lapse after three years. With the outbreak of World War I and the Revolution of 1917, Berne membership was no longer viable.<sup>50</sup>

After the October Revolution, the newly-formed Soviet government hardened the country's isolationist stance. It regarded international copyright agreements with distrust as bourgeois instruments that protected capitalist publishers at the expense of individual authors and the reading public.<sup>51</sup> As a result, the U.S.S.R. withdrew from all international agreements signed by the tsarist government.<sup>52</sup> Isolation lasted for the next half century.

Domestically, however, copyright law flourished. The first Soviet copyright laws were introduced between 1917 and 1919.<sup>53</sup> These early copyright acts converted several classical literary, musical, and dramatic works into State property in order to facilitate the spread of national culture.<sup>54</sup> In addition, the government introduced rules on remunerating authors for use of their works as well as rules for devising ownership to authors' heirs.<sup>55</sup> Grounded in a moralist tradition and a socialist legal philosophy, these early laws were not comprehensive.<sup>56</sup>

Yet, their impact was tremendous. Communism flourished in its early years largely due to the Soviet copyright codes and the

46. *Id.* at 60.

47. *Id.*

48. The Soviet Union concluded these treaties with France (1912), Germany (1913), Belgium (1915), and Denmark (1915). Newcity, *The Universal Copyright Convention as an Instrument of Repression: The Soviet Experiment*, 24 COPYRIGHT L. SYMP. (ASCAP) 1, 4 (1974).

49. For a comprehensive, though outdated, historical treatment, see *id.*

50. Levitsky, *Introduction to Soviet Copyright Law*, 8 L. in E. Eur. 1, 28-29 (1964), cited in Newcity, *supra* note 48, at 6.

51. 37 BOL'SHAYA SOVYETSKAYA ENTSIKLOPEDIYA [LARGE SOVIET ENCYCLOPEDIA] 211 (1st ed. 1938), cited in Newcity, *supra* note 48, at 4.

52. See COPYRIGHT IN INTERNATIONAL RELATIONS, *supra* note 43, at 64.

53. For an outstanding overview of Soviet copyright law and its historical development, see YE. FLEISHITS & A. MAKOVSKY, *THE CIVIL CODES OF THE SOVIET REPUBLICS* 221 (1976).

54. See *id.* at 222.

55. See *id.*

56. E. PLOMAN & L. HAMILTON, *supra* note 4, at 122.

U.S.S.R.'s international isolation.<sup>57</sup> By encouraging freedom of translation, they propelled the cultural revolution as the Soviet Union's multi-lingual peoples were broadly exposed to world culture and Russian achievement.<sup>58</sup> The U.S.S.R. soon earned the distinction of being the world's leading literary pirate.<sup>59</sup> Though Winston Churchill and Franklin Roosevelt discussed the problem of literary piracy with Joseph Stalin in 1945,<sup>60</sup> the Soviet Union remained isolated for another twenty years.<sup>61</sup>

In 1965, the U.S.S.R. broke from its isolation by signing a bilateral protection agreement with Hungary.<sup>62</sup> This bold Soviet initiative ushered in a new era of international cooperation, continuing through the present day. The Soviet Union signed a similar agreement with Bulgaria in 1972.<sup>63</sup> Most significant of all the U.S.S.R. issued a 1973 decree amending Soviet copyright law in order to bring the Soviet codes into compliance with the Universal Copyright Convention.<sup>64</sup> Later that year, the Soviet government created the All-Union Agency on Copyright.<sup>65</sup>

In acceding to the U.C.C., the Soviet Union established copyright relations with over seventy nations, including the United States.<sup>66</sup> This was the first time in history that a Russian government, tsarist or Communist, agreed to take part in a multinational pact. The U.S.S.R. is currently bound by eight separate bilateral agreements as well.<sup>67</sup> Finally, and particularly notable as of late, the Soviet Union has announced its intention to accede to the Berne Convention.<sup>68</sup>

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57. See M. BOGUSLAVSKY, *THE U.S.S.R. AND INTERNATIONAL COPYRIGHT PROTECTION* 139 (1979) [hereinafter *THE U.S.S.R. AND INTERNATIONAL COPYRIGHT PROTECTION*.]

58. *Id.*

59. For some valuable insight into the problem of Soviet piracy and the resulting international pressure to coerce the U.S.S.R. into joining a multilateral copyright pact, see Newcity, *supra* note 48, at 6.

60. Levitsky, *supra* note 50, at 243, cited in Newcity, *supra* note 48, at 6.

61. Newcity, *supra* note 48, at 6.

62. Convention on the Reciprocal Protection of Copyright, November 17, 1967, U.S.S.R.-Hungary, S.U.S.G.

63. Agreement on the Reciprocal Protection of Copyright, October 8, 1971, U.S.S.R.-Bulgaria, 855 U.N.T.S. 235.

64. Decree of the Presidium of the U.S.S.R. Supreme Soviet, On Making Changes in and Additions to the Principles of Civil Legislation of the U.S.S.R. and the Union Republics, reprinted in 9 *COPYRIGHT* 162-63 (1973).

65. Vsesoyuznoye agentstvo po avtorskim pravam (VAAP), The All-Union Agency on Copyright, was established on September 27, 1973 for the collection and distribution of royalties, as well as for the administration of international copyright relations. See E. PLOMAN & L. HAMILTON, *supra* note 4, at 128-9.

66. See J. BAUMGARTEN, *supra* note 9, at 5.

67. These treaties were concluded with Bulgaria, Cuba, Czechoslovakia, the German Democratic Republic, Hungary, Poland, Austria, and Sweden. See 4 *COPYRIGHT LAWS AND TREATIES OF THE WORLD* (1981-83 supp.).

68. See N.Y. Times, *supra* note 2, at D7, col. 4.



## B. Major Provisions

Soviet copyright law is derived from three sources: the Soviet Constitution,<sup>69</sup> the State copyright code,<sup>70</sup> and the copyright codes of the individual union republics.<sup>71</sup> The Constitution grants authority to Soviet copyright protection in Article 47.<sup>72</sup> Other articles support citizens' rights to enjoy the achievements of culture in the U.S.S.R.<sup>73</sup> and affirm the government's interest in promoting the development of Soviet culture.<sup>74</sup>

The Soviet copyright codes elaborate upon the goals of copyright protection set forth in the Constitution. For the most part, the union republics' code provisions overlap with those in the State codes.<sup>75</sup> Therefore, current Soviet copyright law is best examined by dividing the State code provisions into seven substantive sections:

1. *Parties Protected.*—Besides those Soviet citizens whose works are protected under the Universal Copyright Convention and those citizens of countries with which the U.S.S.R. has bilateral agreements, the Soviet copyright codes protect four additional groups: (a) Soviet citizens whose works were first published in the U.S.S.R. or abroad; (b) Soviet citizens whose works have not been published, but exist in the U.S.S.R. in some material form; (c) citizens of foreign countries whose works were first published in the U.S.S.R.; and (d) citizens of foreign countries whose works have not been published, but exist in the U.S.S.R. in some material form.<sup>76</sup>

2. *Rights Protected: a. Personal Rights.*—The author's personal rights (*droit moral*) are equivalent to the moral rights recognized by most other nations. Three of these are expressed in the Soviet copyright codes.<sup>77</sup> Under the first of these major rights, the

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69. See KONST. SSSR (USSR) (1977).

70. See USSR Fundamentals of Civil Legislation—Copyright Provisions (1973) [hereinafter Fundamentals], reprinted in M. NEWCITY, *supra* note 42, at app. A.

71. The U.S.S.R. is a union of fifteen federated republics, each having authority to set its own copyright laws so as to supplement those set forth in the Fundamentals of Civil Legislation. Each of the union republics regulates copyright in far greater detail than the Fundamentals, though all settle copyright questions in essentially the same way. When the laws of the union republics conflict with the Fundamentals, the latter takes precedence. Since the majority of the population in the U.S.S.R. is concentrated in Russia (145.3 million persons out of a total 281.7 million THE STATESMAN'S YEARBOOK 1216 (1989)), Russia's code, *Grazhdanskii Kodeks RSFSR* (Civil Code) [hereinafter GK RSFSR] is by far the most comprehensive and far-reaching. It is reprinted in M. NEWCITY, *supra* note 42, at app. B.

72. "Citizens of the USSR, in accordance with the aims of building communism, are guaranteed freedom of scientific, technical, and artistic work . . . . The rights of authors, inventors and innovators are protected by the state . . . ." See KONST. SSSR, art. 47.

73. *Id.* at art. 46.

74. *Id.* at art. 39.

75. See, e.g., GK RSFSR, *supra* note 71.

76. See Fundamentals, *supra* note 70, at art. 97. See also GK RSFSR, *supra* note 71, at art. 477.

77. GK RSFSR, *supra* note 71, at art. 479.

author of a work must be acknowledged. Authors may use their own names or pseudonyms, or they may publish anonymously, as long as concealing their true identity does not harm Soviet society.<sup>78</sup> The second of these major rights guarantees authors the freedom to publish their works, to determine when their works will be publicly disseminated for the first time, and to determine the form in which the initial dissemination will occur.<sup>79</sup> Finally, the Soviet copyright codes protect the inviolability of an author's work. No person may change the work, alter its title, or provide illustrations, prefaces, postscripts, commentaries, or explanations without the author's prior consent.<sup>80</sup> Inviolability is protected even after the author's death.<sup>81</sup>

*b. Property Rights.*—In accordance with socialist principles, authors' rights are not regarded as private property for personal economic gain but exist, instead, for society's benefit. Accordingly, in order to promote popular education and cultural dissemination, works are to be distributed as widely as possible.<sup>82</sup>

To accomplish these aims, once a work is published in the U.S.S.R., it may be used without its author's consent and in certain instances, without payment of royalties.<sup>83</sup> In cases where royalties are distributed, royalty rates are set by the union republics according to their own fixed rate schedules.<sup>84</sup>

An author shall have the right to the publication, reproduction, and dissemination of his work by all means permitted by law, under his own name, under an assumed name (pseudonym), or without an indication of a name (anonymously); to the inviolability of the work; to the receipt of remuneration for the use of the work by other persons, except in cases specified by law.

The rates of royalties shall be established by the Council of Ministers of the RSFSR, except in cases in which the legislation of the U.S.S.R. reserves the establishment of such rates to the jurisdiction of the U.S.S.R.

In the absence of established rates of royalties, the amount of royalties paid to an author for the use of his work shall be determined according to the agreement of the parties.

*Id.*

In the publication, public performance, or other use of a work, the introduction of any changes either in the work itself or in its title or in the designation of the name of the author is prohibited without the consent of the author.

It is also prohibited to furnish a work at the time of its publication with illustrations, prefaces, appendices, commentaries, or other explanatory material without the consent of the author.

The consent of an author, given at the time of the conclusion of the author's agreement, may not be rescinded unilaterally.

*Id.* at art. 480. See also Fundamentals, *supra* note 70, at art. 98.

78. See Fundamentals, *supra* note 70, at art. 98; see also GK RSFSR, *supra* note 71, at arts. 479 and 480.

79. Fundamentals, *supra* note 70, at art. 98; GK RSFSR, *supra* note 71, at arts. 479 and 480.

80. See Fundamentals, *supra* note 70, at art. 98; GK RSFSR, *supra* note 71, at arts. 479 and 480.

81. See GK RSFSR, *supra* note 71, at art. 481.

82. See E. PLOMAN & L. HAMILTON, *supra* note 4, at 123.

83. Fundamentals, *supra* note 70, at arts. 103 and 104; GK RSFSR, *supra* note 71, at arts. 492 and 495.

84. See Fundamentals, *supra* note 70, at art. 98; see also GK RSFSR, *supra* note 71, at

3. *Objects Protected.*—Under the Soviet copyright codes, copyright extends to every scientific, literary or artistic work, whether published or unpublished and irrespective of its form, purpose, value or method of reproduction.<sup>85</sup> If a work embodies a creative idea and exists in an objective form, it is automatically copyrighted from the moment of its creation.<sup>86</sup> No formalities are necessary.

Works need not exist in tangible or permanent form for copyright protection to apply.<sup>87</sup> Recitals and public performances are accorded the same protection as manuscripts, paintings, and films. Works of choreography and pantomime, however, must be recorded in written or other form.<sup>88</sup> Purely literal translations, direct compilations, and derivative works created by technical means are all deemed to lack creative content and hence, are denied copyright protection.<sup>89</sup>

4. *Copyright Owners.*—The Soviet Union grants authors protection for their own creative works.<sup>90</sup> Authors of works created in the course of performing official government tasks are granted copyrights as well.<sup>91</sup>

In cases of joint authorship, copyright protection is only granted to those individuals who have made genuinely creative contributions to a joint work. Genuine co-authors are granted protection in the entire work, while collaborators are merely protected with respect to their own individual contributions.<sup>92</sup>

When a contribution is purely technical, one is considered a collaborator. For example, while the organization presenting a film or television program has copyright in the underlying work, the script authors, the producer, the chief cameraman, and the art director each enjoy separate copyrights in their collaborative contributions.<sup>93</sup>

When a co-author's work is divisible from the whole joint work, each co-author will own a joint copyright on the work as a whole, as well as a separate copyright on the individual contribution.<sup>94</sup> Royal-

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art. 479.

85. Fundamentals, *supra* note 70, at art. 96; GK RSFSR, *supra* note 71, at art. 475.

86. While formalities are required for U.C.C. protection, domestically, they are unnecessary. See M. NEWCITY, *supra* note 42, at 56.

87. See Fundamentals, *supra* note 70 and GK RSFSR *supra* note 71.

88. GK RSFSR, *supra* note 71, at art. 475.

89. See *supra* notes 76 and 77.

90. See, e.g., Fundamentals, *supra* note 70, at arts. 96 and 98; See also GK RSFSR, *supra* note 71, at arts. 479 and 480.

91. Fundamentals, *supra* note 70, at art. 100; GK RSFSR, *supra* note 71, at art. 483.

92. See Fundamentals, *supra* note 70, at art. 99; see also GK RSFSR, *supra* note 71, at art. 486.

93. See GK RSFSR, *supra* note 71, at art. 486.

94. See *supra* note 92.

ties are apportioned in accordance with the significance of such contributions.<sup>95</sup>

The third group of copyright owners under Soviet law are heirs and assignees. Heirs and assignees enjoy protection equal to that of the original author, provided the original author's rights have already been transferred to them.<sup>96</sup> Authors may also transfer their rights to organizations.<sup>97</sup>

Though author contracts are the most common means of accomplishing transfers, authors may also devise their rights by will.<sup>98</sup> Organization copyrights are permanent. When an organization is reformulated, copyright merely passes to the successor interest.<sup>99</sup> In cases of liquidation, however, copyright passes to the State.<sup>100</sup>

States may also obtain title by compulsory copyright purchase.<sup>101</sup> Though the government rarely exercises this option, it explicitly reserves the right to take such action with respect to both published and unpublished works.<sup>102</sup> Finally, where the term of copyright simply expires, rights to the work pass into the public domain.<sup>103</sup>

5. *Exclusive Use Contracts.*—Exclusive use contracts are a significant component of Soviet copyright law.<sup>104</sup> Transfer agreements permit the use of a work in the same form in which it was created, and licensing agreements authorize the use of a work in an entirely different form, such as, its translation or adaptation for motion picture use.<sup>105</sup>

Licensing agreements are established through negotiation and are deemed valid as long as they do not conflict with Soviet copyright law.<sup>106</sup> Transfer agreements, however, must conform to federally-enacted standard contracts.<sup>107</sup> In examining all exclusive use contracts, whether for licensing or transfer, one must keep in mind

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95. See *supra* note 93.

96. See GK RSFSR, *supra* note 71, at art. 481.

97. See *id.* at arts. 508 and 510.

98. See *supra* note 91.

99. See *supra* note 92.

100. See *id.*

101. See Fundamentals, *supra* note 70, at art. 106; see also GK RSFSR, *supra* note 71, at arts. 501 and 502.

102. Fundamentals, *supra* note 70, at art. 106; GK RSFSR, *supra* note 71, at arts. 501 and 502.

103. See M. NEWCITY, *supra* note 42, at 77.

104. See Fundamentals, *supra* note 70, at art. 101; see also GK RSFSR, *supra* note 71, at arts. 488, 503, 504, 506 and 508.

105. Fundamentals, *supra* note 70, at art. 101; GK RSFSR, *supra* note 71, at arts. 488, 503, 504, and 508.

106. Fundamentals, *supra* note 70, at art. 101; GK RSFSR, *supra* note 71, at arts. 488 and 503.

107. See Fundamentals, *supra* note 70, at art. 101; see also GK RSFSR, *supra* note 71, at art. 506.

that all user organizations are government owned, and therefore, every author ultimately contracts with the same party: the Soviet state.<sup>108</sup>

6. *Free Use*.—Certain works, as specified in the Soviet copyright codes, may be used by others without licensing or transfer agreements. These fall into two categories: those works that may be used without the author's consent but with payment of royalties<sup>109</sup> and those works that may be used without the author's consent and without payment of royalties.<sup>110</sup>

7. *Remedies*.—If a work is used without the author's permission and it does not fall under one of the free use categories, the author may request a court order to prohibit further unauthorized publication.<sup>111</sup> In addition, the author is entitled to sue for restitution of any rights infringed and compensation for direct losses.<sup>112</sup> After the author's death, these remedies pass to the author's heirs or assignees.<sup>113</sup>

#### IV. Conflicts Between The Berne Convention and Soviet Copyright Law

##### A. *Minor Differences*

Article 5 of the Berne Convention specifically states that no formalities are required for copyright protection to apply. Though there are no provisions in the Soviet codes specifically requiring formalities, there is no expressed wording to the contrary. Therefore, the Soviet codes would better conform to the language of the Berne Con-

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108. For some of the most insightful analysis available on Soviet copyright law, see Deitz, *United States and Soviet Copyright Systems: An Essay in Comparison*, 12 INT'L REV. INDUS. PROP. & COPYRIGHT 175, 181 (1981) [hereinafter Deitz].

109. See Fundamentals, *supra* note 70, at art. 104; see also GK RSFSR, *supra* note 71, at art. 495. Works that may be used without the author's consent but with the payment of royalties, include: (1) performances of published works after an initial publication; (2) published works recorded onto film, records, or tape for the purpose of public dissemination, not including works to be aired on television, radio, or cinema; (3) published literary works used by a composer for the creation of a musical work; and (4) works of fine art and photographic works used in the production of industrial articles. *Id.*

110. See Fundamentals, *supra* note 70, at art. 103; see also GK RSFSR, *supra* note 71, at arts. 492-494. Works that may be used without the author's consent and without payment of royalties include: (1) published works used for the creation of a new, creatively independent work; (2) published works of literature, science and art reproduced in full or in part in scientific and critical works and educational publications; (3) published works of literature, science and art discussed in newspapers, magazines, radio, television, and cinema; (4) publicly delivered speeches, reports and published works of literature, science and art reproduced in full or in part in newspapers, magazines, radio, television, and cinema; (5) works of fine art located in places open to free access, except for exhibitions and museums, and reproduced by any means except by contact copying; (6) published works reproduced in Braille; and (7) published works reproduced or used to satisfy one's personal needs. *Id.*

111. See GK RSFSR, *supra* note 71, at arts. 499 and 500.

112. See *id.*

113. See *id.*

vention if such a provision were added.

Similarly, article 15 states that as long as the author's name appears on a work, that author is free to initiate infringement proceedings; in cases of anonymous or pseudonymous works, the publisher of the work is to represent the author. Again, though not in contradiction with the Soviet codes, there is no like provision in U.S.S.R. copyright law, and therefore, the Soviet codes should be amended accordingly.

The Soviet Union must also raise its term of copyright protection from twenty-five years after the author's death<sup>114</sup> to at least fifty years, the minimum term of protection under the Berne Convention.<sup>115</sup> Furthermore, in accordance with Berne,<sup>116</sup> provisions should be introduced governing the terms of protection for anonymous works and cinematographic creations.

Finally, article 104 of the U.S.S.R. Fundamentals of Civil Legislation (*Fundamentals*) and article 495 of the Russian Soviet Federated Socialist Republic (RSFSR) Civil Code should be modified to delete public performances of published works from free use status. Article 11ter of the Berne Convention grants authors an exclusive right to authorize the public recitation of their copyrighted works. Therefore, by excluding public performances from the free uses recognized under articles 104 and 495, the Soviet copyright codes would better conform to the Berne Convention.

### B. Fundamental Differences

The Berne Convention provides for only two free uses: (1) use of quotations from works already made available to the public,<sup>117</sup> and (2) use of already published works for illustration in publications, broadcasts, or recordings designed for teaching purposes.<sup>118</sup> These two free uses only apply when they do not compete economically with the work from which they are derived, violating the author's article 6bis property rights.<sup>119</sup> All other uses are prohibited without

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114. *Fundamentals*, *supra* note 70, at art. 105; GK RSFSR, *supra* note 71, at art. 496.

115. Berne Convention, *supra* note 1, at arts. 7(1) and 7(6).

116. *Id.* at arts. 7(2) and 7(3).

117. *See id.* at art. 10(1). Analysis of the history of article 10(1) reveals that the deletion of the requirement that quotations may only be short ones and the requirement that quoted material must appear in a newspaper or periodical implies that quotations may now be of any length and may be extracted from any source, provided such use accords with fair practice. *See Report of the Main Committee I in Records, 1967 Revision Conference, Stockholm, Vol. I, 1147.*

*See also Committee Notes in Records, 1967 Revision Conference, Stockholm, Vol. I, 116-117.* Free uses of quotations are permissible for political, judicial, critical, scientific, educational, and entertainment purposes.

118. *See Berne Convention, supra* note 1, at art. 10(2).

119. *See generally, Committee Notes in Records, 1967 Revision Conference, Stockholm, Vol. I, ¶12.* Regarding compensation of authors by compulsory license so as not to violate the author's property rights, *see Minutes of the Main Committee I in Records, 1967 Revisions*

the author's prior permission.<sup>120</sup> In contrast, the Soviet copyright codes permit a far greater number of free uses.<sup>121</sup>

Another area of significant conflict concerns the right to freely translate an author's work. In order to comply with article 8 of the Berne Convention, which vests in the author the exclusive right to authorize all translations, the Soviet Union will have to delete the non-consensual translation provisions from its copyright codes.<sup>122</sup>

Similarly, the Soviet Code provisions that permit the public broadcasting of an author's works without consent<sup>123</sup> violate article 11bis of the Berne Convention, which grants authors the exclusive right to authorize such broadcasts. Likewise, article 14 of the Convention vests in authors the exclusive right to authorize cinematographic representations and reproductions of their works. In contrast, the Soviet copyright codes expressly permit the non-consensual cinematographic use of an author's works.<sup>124</sup> They also provide for non-consensual public performances of dramatic, musical or dramatico-musical works,<sup>125</sup> expressly prohibited under article 11 of the Berne Convention.

Further, the author's right to publish, reproduce and circulate creative works, a principle central to the Berne Convention, has little practical meaning in the Soviet Union. The Soviet copyright codes guarantee the inviolability of the author's works, but in reality, all forms of media are state-owned. Therefore, although an author is entitled to reject a publishing company's proposed changes, after this right is exercised the work will usually never be published.<sup>126</sup> Similarly, article 106 of the *Fundamentals* and articles 501-502 of the RSFSR Civil Code contradict the spirit of Berne as they grant the Soviet government the right to acquire an author's published or unpublished works by compulsory purchase.

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Conference, Stockholm, Vol. I, 883.

120. "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." Berne Convention, *supra* note 1, at art. 9(1).

The *expressio unis excludio alterius* rule of interpretation suggests that the author's exclusive rights should apply equally to unpublished works as well as published ones since articles 10(1) and 10bis(1) expressly apply to published works. Fixation in material form, however, is required. See Minutes of Main Committee I in Records, 1967 Revision Conference, Stockholm, Vol. I, 851-853; see also Report of Main Committee I in Records, 1967 Revision Conference, Stockholm, Vol. I, 1144.

121. See *supra* notes 109 and 110 and accompanying text.

122. *Fundamentals*, *supra* note 70, at art. 102; GK RSFSR, *supra* note 71, at art. 489.

123. See *Fundamentals*, *supra* note 70, at art. 103; see also GK RSFSR, *supra* note 71, at art. 492.

124. See *Fundamentals*, *supra* note 70, at art. 103; see also GF RSFSR, *supra* note 71, at art. 492.

125. See *Fundamentals*, *supra* note 70, at art. 104(1); see also GK RSFSR, *supra* note 71, at art. 495.

126. See Deitz, *supra* note 108, at 183.

## V. Viability of Soviet Accession

### A. Importance of Copyright Protection

From its inception, the U.S.S.R. has provided its intellectual workers with pension plans,<sup>127</sup> incapacity compensation<sup>128</sup> and allowances for periods of creative inactivity.<sup>129</sup> Further, the State has supported voluntary societies and professional unions for these workers.<sup>130</sup>

The Soviet Union was reluctant, however, to enter into treaties with foreign nations.<sup>131</sup> The U.S.S.R. feared that international agreements would hinder the cultural revolution by preventing the fledgling government from freely translating foreign works, necessary for educating the country's multilingual population.<sup>132</sup>

Once the Soviet Union achieved world power status, international copyright protection assumed greater importance. Culture flourished in the U.S.S.R. and Soviet authors now needed protection against foreign piracy for their own works. With the Soviet Union publishing nearly 100,000 books per year,<sup>133</sup> bilateral and multilateral copyright agreements looked more attractive than ever before.

Furthermore, foreign publishers refused to publish works by Soviet authors until the U.S.S.R. acceded to the Universal Copyright Convention (U.C.C.).<sup>134</sup> Foreign publishers feared that if Soviet works lacked international copyright protection, they could be freely translated abroad, making the foreign publication of Soviet works a risky venture.<sup>135</sup> As a result, few Soviet books were published in other countries.<sup>136</sup> Thus, U.C.C. membership was of great economic significance to the U.S.S.R.<sup>137</sup>

After having acceded to the U.C.C., the Soviet Union came to recognize the significance of acceding to the Berne Convention. As membership in the Berne Union grew, the U.C.C.'s importance declined. Presently, over eighty countries belong to the Berne Union.<sup>138</sup> Twenty-four of these nations do not adhere to the U.C.C.<sup>139</sup> By acceding to the Berne Convention, Soviet works would instantly receive copyright protection in these twenty-four additional nations. More-

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127. See E. PLOMAN & L. HAMILTON, *supra* note 4, at 122.

128. *Id.*

129. *Id.*

130. See COPYRIGHT IN INTERNATIONAL RELATIONS, *supra* note 43, at 134.

131. See *supra* p. 6; see also note 48.

132. *Id.*

133. See COPYRIGHT IN INTERNATIONAL RELATIONS, *supra* note 43, at 134.

134. See *id.* at 132-33.

135. *Id.* at 80.

136. *Id.*

137. See *id.* at 14-15.

138. See note 10.

139. See M. NIMMER, *supra* note 1, at apps. 22-23 (1981).



over, the level of protection that Soviet authors would enjoy would be the highest standard available in the world today.

Membership in the Berne Union would facilitate the continued economic integration and spread of culture between the U.S.S.R. and other socialist nations as well.<sup>140</sup> And finally, by joining the Berne Union, the U.S.S.R. would secure international copyright protection for all works published throughout the history of the Soviet Union, unlike U.C.C. protection which only covers those works published *after* a nation's accession.<sup>141</sup>

### B. *Conformance with Berne Provisions*

1. *Fundamental Similarity.*—In spirit, Soviet copyright law and the Berne Convention are much alike. As the Preamble to the Berne Convention states, "The countries of the Union, being equally animated by the desire to protect, in as effective and uniform a manner as possible, the rights of authors in their literary and artistic works . . . have agreed as follows . . . ." This language parallels that of article 47 in the Soviet Constitution, authorizing the creation of the copyright codes.<sup>142</sup> As the preceding analysis of the contradictions between the Soviet copyright codes and Berne has revealed, there are few areas of major disagreement.<sup>143</sup>

Free uses, compulsory licenses, and compulsory purchase present in the Soviet codes do not obstruct most of the author's rights protected under Berne. Under the Soviet codes, the attribution of authorship is left intact, authors retain the right to their work's inviolability, and authors are entitled to receive royalties.<sup>144</sup> In essence, under the Soviet codes authors lose only the right to decide whether and under what conditions their works will be used.<sup>145</sup>

2. *Minor Differences.*—On areas of minor conflict it is likely that the Soviet government will alter its copyright codes to comply with the Berne Convention. For instance, in order to satisfy Universal Copyright Code provisions, the U.S.S.R. raised its term of copyright protection to twenty-five years after the author's death.<sup>146</sup> There is no reason to believe that the Soviet Union will now refuse to raise its term of protection by another twenty-five years in order to conform with the Berne Convention's fifty-year minimum.<sup>147</sup>

140. See COPYRIGHT IN INTERNATIONAL RELATIONS, *supra* note 43, at 216.

141. See M. NIMMER, *supra* note 1, at 17-12.

142. See *supra* note 69.

143. See *supra* pp. 16-18.

144. See, e.g., Fundamentals, *supra* note 70, at arts. 98 and 104; see also GK RSFSR, *supra* note 71, at arts. 479 and 495.

145. M. NEWCITY, *supra* note 42, at 118.

146. See *supra* p. 7 and note 64.

147. See Berne Convention, *supra* note 1, at art. 7(1).

Similarly, on issues of expressed wording, it is likely that the Soviet Union will bring the language of its copyright codes into conformity with the Berne Convention (e.g., adding a provision that explicitly eliminates formalities).<sup>148</sup> Finally, it is equally probable that the U.S.S.R. will remove public recitation from its article 104 list of free uses bringing Soviet copyright law into conformance with article 11ter (1)(i) of the Berne Convention.<sup>149</sup> Today, public recitation is of minimal importance in the U.S.S.R., and the elimination of its free use should have little adverse impact.

3. *Fundamental Differences.*—It is conceivable that the Soviet Union will eliminate several of its more significant free uses from articles 103 and 104 as well. The government has already imposed restrictions on Article 103 of the *Fundamentals* so that its free uses only apply to reproductions from specific publications, limited to passages under 10,000 characters in length.<sup>150</sup>

With the growth of radio and television in the U.S.S.R. and the greater homogenization of Soviet culture, freedom of translation is not as significant to the Soviet government as it once was. Public performances of dramatic and musical works have a similarly diminished impact today. Television, radio and sound recordings are the leading forms of mass media in the Soviet Union. Thus, the U.S.S.R. should be able to delete translations and public performances from its list of free uses, with little adverse effect.

The most difficult concession of all will be the elimination of radio and television broadcasts and cinematographic works from article 103 of the *Fundamentals* and article 492 of the RSFSR Civil Code. Though these free uses are necessary for the spread of Soviet culture, they are not as significant today as they were ten or fifteen years ago.<sup>151</sup> On balance, the important economic and political benefits to be derived from Berne Union membership should outweigh the disadvantages associated with losing these free uses.

As the Soviet Union achieved world power status in the latter half of this century, cultural dissemination was no longer a national priority. Economic and political concerns moved to the foreground. To meet these new demands, the Soviet Union ended its self-imposed isolation, vital to the spread of Soviet culture,<sup>152</sup> and entered into several bilateral and multilateral copyright protection agreements.<sup>153</sup> Accession to the Berne Convention is the next step.

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148. See *supra* note 64.

149. See *supra* p. 13.

150. See M. NEWCITY, *supra* note 70, at 109.

151. See *supra* pp. 6-7.

152. See *supra* pp. 7-8.

153. See *supra* pp. 7-8 and n.67.

Compulsory purchase, article 106 of the *Fundamentals* and articles 501-502 of the RSFSR Civil Code, is the final impediment to full compliance with the Berne Convention. Controversial since its inception, this provision has been entrenched in Soviet copyright law from the earliest days of the Soviet regime.<sup>154</sup> This provision vests in the Soviet government the authority to purchase copyright in either published or unpublished works without the author's consent.<sup>155</sup>

Yet, despite its traditional presence in Soviet copyright law, compulsory purchase is of little practical significance. It has not been used for at least thirty years,<sup>156</sup> and never has it been employed against a living author.<sup>157</sup> It was used for the first time, in the late 1950's, in order to prevent the heirs to successful authors from collecting royalties.<sup>158</sup> Recent revisions in the Soviet tax structure have raised the levy on such royalties, and as a result, royalty collection is no longer a problem warranting compulsory purchase.<sup>159</sup>

Finally, observers have feared that the Soviet government would use the provision to block the publication of dissidents' works.<sup>160</sup> Yet, several alternatives to compulsory purchase exist. For instance, the Soviet government may prevent such authors from joining the Union of Soviet Writers, thereby terminating their economic and political privileges and their access to the state-controlled publishing houses. Other effective sanctions are imprisonment or exile, in accordance with the Soviet penal code.<sup>161</sup> Thus, compulsory purchase may be deleted from the Soviet copyright codes with little adverse impact.

### C. *Significance of Historical Parallels*

In assessing whether it is likely that the U.S.S.R. will change its copyright codes, to comply with the Berne Convention, recent Soviet history suggests that the U.S.S.R. will, in fact, do so. The Soviet Union has already demonstrated its willingness to alter its copyright

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154. See M. NEWCITY, *supra* note 42, at 116.

155. "Copyright in the publication, public performance, or other use of a work may be compulsorily purchased by the state from the author or his heirs pursuant to a special decree, adopted in each individual case by the Council of Ministers of the RSFSR." GK RSFSR, at art. 501; see also *Fundamentals*, *supra* note 65, at art. 106.

156. Regarding its lack of use from 1960 to 1975, see Gavrillov, *Correspondence: Letter From the U.S.S.R.*, 12 COPYRIGHT 96, 97 (1976). Regarding its lack of use from 1975 to present, "[t]here have been no compulsory purchases in the Soviet Union in [the] last twenty years or so." Telephone interview with Special Envoy, Soviet Business and Trade Council, German Avksentyez, March 21, 1990.

157. *Id.*

158. See THE U.S.S.R. AND INTERNATIONAL COPYRIGHT PROTECTION, *supra* note 57, at 152.

159. See Gavrillov, *supra* note 156, at 102.

160. See M. NEWCITY, *supra* note 42, at 17.

161. See e.g., Ugolovni Kodeks RSFSR (Criminal Code) [UK RSFSR] § 70 (1962); *Especially Dangerous Crimes Against the State: Anti-Soviet Agitation and Propaganda*, reprinted in SOVIET CRIMINAL LAW AND PROCEDURE 153-54 (1972).

codes in order accede to the Universal Copyright Convention.

To ensure compliance with the U.C.C., the Soviet Union abandoned freedom of translation, a fundamental right throughout the history of Soviet copyright law.<sup>162</sup> Similarly, the U.S.S.R. amended its copyright codes to allow authors and their heirs to alienate their rights in a work, a principle virtually unheard of in a communist society.<sup>163</sup>

In each of these instances, the Soviet Union realized that the advantages to be gained from membership in the Universal Copyright Convention would outweigh the disadvantages of a copyright code revision. Therefore, no matter how fundamental some of the Soviet copyright code provisions may now seem, the benefits of Berne Union membership should compensate for the negative effects of copyright code changes.

It is by no means unprecedented for a socialist state to successfully adhere to the Berne Convention. Bulgaria, Hungary, Poland, Rumania, Czechoslovakia, and Yugoslavia all altered their copyright codes before acceding to the Berne Convention.<sup>164</sup> Thus, Soviet membership would hardly constitute a radical new development in socialist philosophy.

The time is right for Soviet accession. In recent years, the Soviet government has demonstrated its willingness to improve East-West relations. Not only would membership in the Berne Union bolster the Soviet economy and benefit Soviet authors and national culture in general, but it would also help expand the flow of information between East and West. The social, economic, and political ramifications would be tremendous.

Appropriately enough, in 1973, when the Soviet Union acceded to the U.C.C. it was in accordance with the "Program of Peace and International Cooperation."<sup>165</sup> Glasnost, today, mirrors the detente spirit of the 1970's. Thus, it is fair to assume that the U.S.S.R.'s expressed intention to join the Berne Union is genuine and the Soviet Union will accede to the Berne Convention in the months ahead.

## VI. Conclusion

Though current Soviet copyright law complies with the Berne Convention in most respects, several differences still exist. Given the tremendous advantages to be gained from Berne Union membership and the Soviet government's desire for greater international copy-

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162. See M. NEWCITY, *supra* note 42, at 76.

163. See *id.* at 73.

164. See COPYRIGHT IN INTERNATIONAL RELATIONS, *supra* note 43, at 75.

165. See THE U.S.S.R. AND INTERNATIONAL COPYRIGHT PROTECTION, *supra* note 57, at 159.

right protection, it is likely that the U.S.S.R. will alter its copyright codes so as to fully conform to the provisions of the Berne Convention.

The social, economic, and political gains to be derived from membership in the Berne Union outweigh the disadvantages of a copyright code revision. The time is right for such change. Therefore, it is likely that the Soviet Union will alter its copyright codes and accede to the Berne Convention, bringing the world much closer to achieving the ideal of one unified international copyright agreement.

*William Scott Goldman*