

Decree of the State Council of the People's Republic of China

No. 105

International Copyright Treaties Implementing Rules are hereby promulgated and shall be effective as of September 31, 1992.

Premier, Li Peng

September 25, 1992

International Copyright Treaties Implementing Rules

Article 1 These Rules are formulated to implement international copyright treaties and to protect the legitimate rights and interests of owners of copyright in foreign works.

Article 2 Protection of foreign works shall be carried out through application of the Copyright Law of the People's Republic of China (hereinafter referred to as "the Copyright Law"), the Implementing Regulations of the Copyright Law, the Regulations on Computer Software Protection and these Rules.

Article 3 "International copyright treaties" mentioned in these Rules shall refer to the Berne Convention for the Protection of Literary and Artistic Works (hereinafter referred to as "the Berne Convention") to which (the People's Republic of) China (hereinafter referred to as "China") is a party and bilateral agreements relating to copyright which China has concluded with foreign countries.

Article 4 Foreign works mentioned in these Rules shall include:

(1) works of which the author or one of the co-authors or the other owner of copyright or one of the co-owners of copyright is a national or a permanent resident of a country party to international copyright treaties;

(2) works of which the author is not a national or a permanent resident of a country party to international copyright treaties but which

have been first published or published simultaneously in a country party to international copyright treaties;

(3) works created by others on commission, of which the owner of copyright or one of the co-owners of copyright, by virtue of a contract is a joint venture enterprise, a cooperative enterprise or an enterprise with sole foreign investment.

Article 5 In the case of unpublished foreign works, the term of protection shall be governed by Article 20 and Article 21 of the Copyright Law.

Article 6 In the case of foreign works of applied art, the term of protection shall be 25 years commencing from the creation of the Works. Paragraph one of this Article, however, shall not apply to the use of works of fine arts, including drawings of cartoon characters, in industrial goods.

Article 7 Foreign computer programs shall be protected as literary works, shall not be subject to registration and shall enjoy a term of protection of 50 years commencing from the end of the year of their first publication.

Article 8 Foreign works created by compiling non-protected materials shall be protected in accordance with Article 14 of the Copyright Law, provided that originality is shown in the selection and arrangement of such materials. Such protection, however, shall not

prevent another person from using the same materials to create works of compilation.

Article 9 Foreign video recordings shall be treated as cinematographic works to the extent that international copyright treaties protect them as such works.

Article 10 Prior permission of the copyright owner shall be required to translate a published foreign work, if created in Chinese, into the language of a minority nationality.

Article 11 Copyright owners of foreign works shall have the right to authorize the public performance, by any means or process, of their works, and the communication to the public of the performance of their works.

Article 12 Copyright owners of foreign cinematographic works, television works and works of video recordings shall have the right to authorize the public performance of their works.

Article 13 Prior permission of the copyright owner shall be required for newspapers and periodicals to reprint a foreign work, except the reprinting of articles on current political, economic and social topics.

Article 14 Copyright owners of foreign works shall retain the right to authorize or prohibit rental of copies of their works after the authorized sale of such copies.

Article 15 Copyright owners of foreign works shall have the right

to prohibit the importation of the following types of copies of their works:

(1) infringing copies;

(2) copies coming from a country where their works are not protected.

Article 16 In the case of public performance, recording and broadcasting of foreign works, the provisions of the Berne Convention shall apply. Where there is a collective administration organization, prior permission of such organization shall be required.

Article 17 Foreign works which, at the date on which international copyright treaties enter into force in China, have not fallen into the public domain in their countries of origin shall be protected until the expiration of the term of protection as is prescribed in the Copyright Law and these Rules.

Paragraph one of this Article shall not apply to uses of foreign works that took place before international copyright treaties entered into force in China.

A Chinese citizen or legal person who owned and used a particular copy of a foreign work for a particular purpose before international copyright treaties entered into force in China may continue to make use of that copy of the work without liability, provided that such copy is neither reproduced nor used in any manner that unreasonably prejudices

the legitimate rights and interests of the copyright owner.

The application of the above three paragraphs of this Article shall be subject to provisions of bilateral agreements relating to copyright concluded by China with the countries concerned.

Article 18 Articles 5, 12, 14, 15 and 17 of these Rules shall also apply to sound recordings

Article 19 Where pre-existing administrative regulations relating to copyright may conflict with these Rules, these Rules shall apply. Where these Rules may conflict with international copyright treaties, the international copyright treaties shall apply.

Article 20 The implementation in China of international copyright treaties shall be the responsibility of the National Copyright Administration of China.

Article 21 The interpretation of these Rules shall be the responsibility of the National Copyright Administration of China.

Article 22 These Rules shall enter into force on September 30, 1992.