



**Country Report – South Africa**  
**Annual report to the IFLA CLM committee**  
**Helsinki, Finland, August 2012**

## **Copyright**

### ***Revision/changes in existing law or regulations***

#### ***New legislation***

- ***Copyright Review***

The SA Dept. of Trade & Industry commenced a process of intellectual property review at its Intellectual Property Indaba (meeting) for all stakeholders on 4 August 2011. However, no feedback has been given by the Dept. of Trade & Industry at this stage.

- ***Intellectual Property Amendment Bill (Traditional Knowledge)***

The Intellectual Property Amendment Bill (Traditional Knowledge) was passed in November 2011 by Parliament and currently awaits signature by the President. This Bill has been very controversial, with various versions, and with strong opposition from the majority of stakeholders. It proposes to amend four IP Acts, including the Copyright Act. It creates a whole new layer of works under copyright protection. IP legal experts claim that this legislation is totally impractical and should rather be considered under 'sui generis' legislation.

- ***Collection Societies***

In early 2011, the South African Minister of Trade and Industry created a Commission chaired by a judge to review the distribution of copyright royalties by collecting societies in South Africa. The final report has been not yet been made public.

- ***Orphan Works, Mass Digitisation and Levies.***

No developments to report.

I have compiled a LibGuide on Digitisation, Preservation, Curation and Data Management at

[http://libguides.wits.ac.za/digitisation\\_preservation\\_and\\_digitalcuration](http://libguides.wits.ac.za/digitisation_preservation_and_digitalcuration)

- ***Legal Deposit***

The current law is up to date and includes digital formats, but any necessary amendments would only be possible when the Copyright legislation has been updated.

- ***Public Lending Rights***

The Academic and Non-Fiction Authors' Association of South Africa (ANFASA) started a process of lobbying for public lending rights in South Africa a few years ago. No progress has been made at this stage, mainly due to opposition from the library sector. Before the process continues, it is crucial that ANFASA engages in discussions with the Library Association of South Africa (LIASA) and the National Council for Library and Information Services (NCLIS), and /or other library organisations, all of which are key stakeholders in the process.

- ***Creative Commons***

Many institutions now use CC licences for their websites. Creative Commons licences are also promoted in talks on copyright and open access at tertiary institutions.

## **Legal Matters**

### ***Revisions/changes in existing law or regulations***

#### ***New legislation***

- ***Trade Agreements, Privacy, Anti-Terrorist Law and ACTA***

At this stage, there is nothing to report on trade agreements, privacy issues or anti-terrorist laws. As far as I can establish, no formal discussions on ACTA have been initiated by the SA Government.

- ***DRMs***

Until such time as the SA Electronic Communication and Transactions Act No. 25 of 2002 is amended, DRMs remain a controversial issue, as there are no appropriate limitations and exceptions in the Act.

- ***IP Rights from Public Financed Research and Development Act No. 51 of 2008***

Many of the tertiary institutions have opened Technology Transfer Offices to implement this Act and its Regulations. In early 2012, the Department of Science and Technology (DST) established the National Intellectual Property

Management Office (NIPMO) as a Chief Directorate within the DST, in terms of the Intellectual Property Rights from Publicly Financed Research and Development Act. The Chief Directorate is an interim regulatory measure until NIPMO is formally established as an independent entity, a process that is expected to take at most 18 months.

- ***Protection of State Information Bill***

This very controversial Bill (commonly known as the Secrecy Bill) has been amended a few times but has not yet been passed. The majority of stakeholders, including lawyers, educators, librarians, researchers, opposition parties, media persons, journalists, authors, etc., have strongly opposed this Bill as it has serious implications for transparency, access to information (when classified) and freedom of expression, especially by the media and journalists. Recently the United States, Canada, Czech Republic, Germany, Norway, Poland, Portugal, Sweden and Switzerland all expressed concerns that the proposed laws could threaten media freedom. The Bill has been stalled until further notice.

## **Law Cases**

No appropriate cases to report.

## **Lobby activities**

On an institutional/personal level, I continue to lobby to various Government departments for more appropriate copyright and access to knowledge legislation. Many Government officials receive my information service "Copyright & A2K Issues".

IFLA and the Organising Committee of the Crimea 2012 International Conference (4-10 June 2012) invited me to moderate the IP Forum at the conference in Sudak, Crimea, on 5 June 2012 and to present on the Treaty on Copyright Limitations and Exceptions for Libraries and Archives. In Ingrid Parent's absence due to family illness, I also presented her papers, welcome speeches and thank you addresses at the conference and the IFLA 3 day Forum, which promoted IFLA activities and the TLIB to librarians from 20 different countries, the majority being from CIS and former Soviet countries.

Early in 2012 I circulated IFLA's Information Kit on TLIB to relevant Government Departments and officials. Had no response from the Dept. of Trade and Industry. The Dept. of Arts and Culture responded by inviting me to speak about the TLIB to the National Council for Libraries and Information Services (NCLIS), the advisory body to the Minister of Arts and Culture, on 26 March 2012.

The South African National Council for the Blind copyright workgroup (I am a member) continues to lobby for better copyright laws for the visually impaired. Where possible, they have provided input into Government documents and into the discussions on the WBU Treaty for Blind, Visually Impaired and other Reading Disabled Persons for WIPO SCCR meetings.

### **Educational activities**

Copyright awareness workshops are offered on many university and school campuses. Many of the tertiary institutions in South Africa now have copyright officers dealing with copyright clearances and education on copyright matters. DALRO, the rights organization, held a copyright information workshop for tertiary institutions in early 2012.

### **Strategic plans for future**

South Africa plays a leading role in the Africa Group at WIPO and is currently involved in the discussions on the Draft WIPO Treaty on Exceptions and Limitations for the Persons with Disabilities, Educational and Research Institutions, Libraries and Archives for discussions at the WIPO SCCR 23 meetings in July 2012. I continue to promote TLIB at library meetings and to Government officials.

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1 July 2012**