

Law No. 43 of 25 February 1998

**MODIFICATIONS AND SUPPLEMENTS TO LAW NO. 8 OF 25 JANUARY 1991
(COPYRIGHT PROTECTION) AND TO LAW NO. 63 OF 24 JUNE 1997 (PROVISIONS
SUPPLEMENTING LAW NO. 8 OF 25 JANUARY 1991 –
COPYRIGHT PROTECTION)**

*We the Captains Regent
of the Most Serene Republic of San Marino*

promulgate and order the publication of the following Law approved by the Great and General Council during its sitting of 25 February 1998.

Article 1

Art. 28 of Law No. 8 of 25 January 1991 is supplemented as follows:

“Moral rights confer on the author the right, among other things:

- (a) not to disclose the work;
- (b) to claim authorship of the work and to proceed against any appropriation of authorship by third parties;
- (c) to object to any distortions, transformations and modifications of the work not authorized by him;
- (d) to object to all uses of and to all acts in relation to the work that would be prejudicial to his honor or reputation;
- (e) to demand, without prejudice to the right to disclose the work anonymously or under a pseudonym, not to be mentioned as the author of the work in the cases provided for in the third paragraph of Article 21 above, in the second paragraph of Article 62 and in Article 79;
- (f) to withdraw the work from circulation according to the procedure and conditions provided for in this Law;
- (g) to prohibit any act through which the work may be disclosed to the public, either directly or indirectly.”

Article 2

Art. 32 of Law No. 8 of 25 January 1991 is modified as follows:

“The author has the exclusive right to exploit his work economically.

Such right includes the possibility of using the work in any form and manner, as well as the following rights:

1. right of reproduction;
2. right of adaptation;
3. right of translation;
4. right of public distribution by sale, rental or lease, royalty, lending or importation;

5. right of broadcasting and public disclosure;
6. right of public distribution whether or not by wire, to enable access to the work by anyone from separate places and at different times;
7. right of public display;
8. right of dissemination;
9. right of assignment to third parties of the benefits deriving from copyright;
10. right of licensing third parties to exercise the rights referred to in 1), 2), 3), 4), 5), 6), 7) and 8) whether or not under special conditions.

Only with regard to phonographic records or any other similar devices for reproducing sounds or voices, shall the related producer be entitled to the rights referred to in the preceding paragraph.

The producer of phonographic records or any other similar devices for reproducing sounds or voices is understood to be the person who takes the initiative and the responsibility for the first sound recording of the work or for sound recordings or sound representations.”

Article 3

Art. 42 of Law No. 8 of 25 January 1991 is modified as follows:

“Computer programs shall be protected for a period of 50 years following the end of the calendar year of the first disclosure thereof.

Where the work has not been disclosed within 50 years from its production, the term of protection shall expire 50 years after the end of the calendar year in which the work was produced.”

Article 4

Art. 62 of Law No. 8 of 25 January 1991 is modified as follows:

“The contract for the production of an audiovisual work shall, unless otherwise agreed by the parties, constitute assignment to the producer of the right of economic exploitation of the work as a whole.”

Article 5

Art. 84 of Law No. 8 of 25 January 1991 is modified as follows:

“Photographs shall be protected for the whole length of the author’s life and for 50 years after the end of the calendar year of the author’s death.

Where the term of protection is not based on the length of the author’s life, photographs shall be protected for 50 years after the end of the calendar year of their first disclosure.

Where photographs have not been disclosed within 50 years from the date on which they were taken, the term of protection shall expire 50 years after the end of the calendar year in which the photographs were taken.

Article 6

Art. 87 of Law No. 8 of 25 January 1991 is modified as follows:

“Copies of the photograph shall carry a notice stating the date on which it was taken and the name of the author; in the case referred to in Article 85, they shall also give the name of the employer or of the person who commissioned the work.

The author shall also be considered named when the photograph is disclosed under a pseudonym, abbreviation or conventional sign well known to be that of the author.”

Article 7

Art. 115 of Law No. 8 of 25 January 1991 is supplemented as follows:

“Any person who intends to bring one of the actions provided for in the preceding Articles of this Chapter may appeal to the *Commissario della Legge* to order the provisional execution of measures that are immediately effective for the purpose of:

- a) protecting the effective exercise of copyright by its legitimate owner;
- b) preventing any infringement of the intellectual property right or preserving relevant evidence in regard to the alleged infringement;
- c) ensuring the settlement of the copyright owner’s claim or payment for damages by the person alleged to have infringed copyright.

The *Commissario della Legge* shall pronounce by decree, after having heard without delay, for the purpose of eliciting summary information, the party against whom the measure in question is to be executed.

The *Commissario della Legge* may dispense with the hearing of the party against whom the measure is to be executed and order the execution of the measure, where appropriate requiring the plaintiff to deposit security commensurate with his economic resources and the seriousness of the measure applied for:

- a) in all cases of particular seriousness or urgency;
- b) where a delay in issuing such measure would cause irreparable harm to the copyright owner;
- c) where there is a demonstrable risk of evidence concerning the alleged infringement being destroyed;
- d) where the person against whom the measure is to be executed has no domicile or usual residence or representative authorized to engage in legal proceedings on the territory of the Republic.

The decree shall be notified to the party against whom the measure is to be executed, prior to or at the latest at the time of the execution thereof.

The decree shall be enforceable without any restriction as to the date or time of day.”

Article 8

Art. 2 of Law No. 63 of 24 June 1997 is modified as follows:

“Performers, with regard to their unfixed performances, shall enjoy the following exclusive rights:

- a) right of broadcasting and disclosure, except where the performance is a broadcast by itself;
- b) right of recording.

Performers, with regard to their fixed performances, shall enjoy the following exclusive rights:

- a) right of direct and indirect reproduction of their performances fixed in phonograms;
- b) right of public distribution
- c) right of rental
- d) right of public performance by wire or otherwise.

The rights granted under the preceding paragraphs are transferable *inter vivos* or *mortis causa*.”

Article 9

The first paragraph of Art. 120 of Law No. 8 of 25 January 1991 is modified as follows:

“Copies of the works referred to in the foregoing Article may not be sold without the authorization of the owner of the copyright or his successors in title, on condition that they have been manufactured on or – if manufactured abroad – have been imported into the territory of the Republic prior to the date of entry into force of this Law.”

Article 10

This Law shall enter into force on the fifteenth day following that of its legal publication.

Done at Our Residence, on 27 February 1998.