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CREATIVITY AND INVENTIONS – A BETTER FUTURE FOR
HUMANITY IN THE 21ST CENTURY**

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**THE ROLE OF COPYRIGHT AND FUTURE CHALLENGES TO CREATORS,
INDUSTRY, LEGISLATORS AND SOCIETY AT LARGE**

INVENTORS' AND CREATORS' RIGHTS AS BASIC HUMAN RIGHTS

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1. The introduction of such rights was at the time a response to needs that today are still relevant.
2. While it is true that the human individual has always felt the need to invent and create in order to provide for his livelihood, it is equally true that the same individual needs to live in a protected, controlled environment. It is not surprising therefore that what has been done for health by WHO, for women by UNIFEM, for communications and other things should also be done for invention and creation, in other words for intellectual property at the international level, by WIPO.
3. At the regional level, the African Intellectual Property Organization (OAPI), as a specialized agency of the African and Malagasy Common Organization (OCAM), was created in 1962 with its headquarters in Yaoundé (Cameroon). When the parent organization was transferred to Bangui (Central African Republic) after the withdrawal of Cameroon from the OCAM, the headquarters of OAPI remained in Yaoundé and OCAM, which in the meantime had become the African and Mauritian Common Organization, ceased to exercise exclusive control over it. OAPI subsequently expanded to accommodate other countries.
4. The members of OAPI are Benin, Burkina Faso, Cameroon, the Central African Republic, Chad, Congo, Côte d'Ivoire, Gabon, Guinea, Guinea-Bissau, Mali, Mauritania, Niger, Senegal and Togo.
5. The creation of these structures (WIPO and OAPI) ensures support for the countries acceding to them in the achievement of their political objectives of industrial, economic, scientific and cultural development.
6. Thus it is that, at the national level, most States have at their disposal a national industrial property service, more often than not called the Patent Office, which is responsible among other things for issuing and publishing industrial property titles valid throughout their national territory, and where necessary for facilitating applications for such titles abroad. In Burkina Faso this service is called the National OAPI Liaison Agency.
7. A patent assures its owner of protection for his invention against possible uses, distribution or sale.
8. The promotion of intellectual property is taken care of by two separate structures, each concerned with one of its two components, namely industrial property and literary and artistic property.
9. The Burkinabé Copyright Office (BBDA), which was set up in 1983 and has been operational since 1987, is a public body of professional character with legal personality and financial autonomy. Its main role is to provide for the protection and defense of the material and moral interests of all creators of intellectual works or their successors in title on the national territory and abroad. It thus acts as an intermediary between the author or his successors in title and the users of literary and artistic works by collecting from the latter the royalties payable for the exploitation of works and distributing them among the authors and their successors in title.
10. The BBDA concerns itself also with promoting creativity, and contributes to the fight against the pirating of musical and audiovisual works.

11. Unfortunately, the countries of OAPI do not all have copyright offices in operation, or quite simply do not have any at all; they thus place their creators in a difficult position. Consideration must be given to heightening awareness of the need to enact laws for the protection of performers within the framework of adequate and competent structures in countries not yet equipped with professional bodies for the collective management of copyright and related rights.

12. It should be noted that Burkina Faso is the first African country to have ratified the WIPO Performances and Phonograms Treaty (WPPT) and the WIPO Copyright Treaty (WCT). In actual fact the National Assembly gave its consent in 1999, and the instruments of ratification have been deposited.

13. In addition, the BBDA has just been provided with new legislation which will enable it to deal with related rights as well as copyright. Expressions of the traditional cultural heritage will also be protected by the same legislation. It should be pointed out that this area of concern is very important to our society. Certain elements of our heritage are records of historical facts and events, and therefore serve as archives. For greater efficiency, the BBDA has regional offices for better coverage of the entire national territory.

14. The redistribution of the royalties of performers is carried out regularly.

15. For example:

- in 1987, 3,006,795 francs (CFA) were redistributed, and then
- 91,539,226 francs in 1997,
- 93,769,940 francs in 1998 and
- 110,962,767 francs in 1999.

16. In 1999 the distribution was to 500 performers, including 274 Burkinabé and 200 foreign performers; 1,200 performers, including 1,050 musicians, are registered with the BBDA.

17. As far as patents are concerned, Burkina Faso has an entity whose purpose is to ensure the protection of industrial creations in order to make research work profitable and to develop the spirit of innovation; this is the National OAPI Liaison Agency.

18. Its role is the following:

- to inform the public on and make it aware of the usefulness of industrial property in economic activity;
- to advise applicants for industrial property titles (patents, marks, designs, etc.);
- to take care of the approval of license contracts relating to industrial property rights;
- to make the scientific information contained in patent documents available to the public.

19. In this connection Burkina Faso has just been honored with a distinction awarded to one of its nationals at the sixth World Invention Fair, held in Morocco in May 2000.

20. It was Mr. Philippe Yoda, President of the Burkina Association of Inventors, who was awarded the Hassan II Environment Prize.

21. This inventor won his prize thanks to utilitarian objects manufactured from plastic bags, in other words waste material. The articles in question are flowertubs, signboards, decorative panels and knife handles. Plastic bags pollute the environment and decimate livestock. A first-class documentary entitled "Plastic Fever" was made by a lady film-maker, Mrs. Sénéfa Coulibaly; it is an eloquent film which publicizes the serious problem that plastic bags represent. Mr. Yoda's invention thus goes some way towards providing a solution to this deplorable state of affairs, and has the added advantage of being a potential source of jobs.

22. The International Craft Fair of Ouagadougou (SIAO), which is held every two years, is an opportunity for the talents of African inventors in general and Burkinabé inventors in particular to be discovered.

23. The Fair is due to be held in Ouagadougou from October 27 to November 5, 2000, in other words in a few days' time.

24. It may be said that the rights of all creators, from whatever continent, are included among the fundamental rights of the human individual.

25. Indeed, Article 19 of the Universal Declaration of Human Rights reads: "Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers."

26. Further on, in Article 27, it is provided that "Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to **share in scientific advancement** and its benefits. (...) Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary or artistic production of which he is the author."

27. If one considers the foregoing and also the precarious position of performers, there is no disputing that the rights of creators and inventors requires special protection. One tends to overlook the fact that their is a profession, a job, and that the authors of such work have a right not only to remuneration but also to protection of their works, failing which they cannot provide for fundamental needs such as food, clothing, education and medical care; in a word, they have a right to life. That is why it is important for legislation to introduce protective laws, and for those laws not to be circumvented with computer raids. The developed North wanted globalization, while the developing South has to put up with it, and that only widens the gap that already existed owing to the lack of means, know-how and so on.

28. How can one continue to protect the rights of creators if their works become universally accessible without their consent? Businesses are liable to disappear as well as authors if they no longer earn anything. Piracy will grow still more thanks to the systems made available by new information and communication technology.

29. What legislation has to do, to herefore, is amend laws with sufficient regularity for creators and inventors to be protected better.

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