

UNION DE PARIS: COMITÉ EXÉCUTIF, QUATRIÈME SESSION
PARIS UNION: EXECUTIVE COMMITTEE, FOURTH SESSION

(Genève, 24-27 septembre 1968)
(Geneva, September 24 to 27, 1968)

PROTECTION OF TYPE FACES

Report by the Director of BIRPI

1. The question of the possible adoption of a special agreement, within the framework of the Paris Union, for the protection of type faces was considered at the second session of the Conference of Representatives, in December 1967.
2. The Conference asked that a report, giving the full results of BIRPI's study of the question, be submitted to the 1968 session of the Executive Committee which would then take the appropriate decisions (report of the second session of the Conference of Representatives - document CR/II/15, paragraph 25).
3. The report requested by the Conference of Representatives is given in this document.
4. As early as June 18, 1964, BIRPI had sent out to all countries at that time party to the Paris Convention a draft agreement and draft regulations drawn up by a Committee of Experts which had met four times in Geneva at the invitation of the Director of BIRPI. The report established by Messrs. Th. Lorenz (Austria) and J.L. Marro (Switzerland), Rapporteurs of the Committee of Experts, was attached to these drafts.
5. A reminder to the communication of June 18, 1964, was circulated by BIRPI on August 25, 1967, to the countries referred to in paragraph 4. It was accompanied by a report

on the replies received by that date. All of the documents dispatched to those countries were also sent, on August 25, 1967, to the countries that were not yet party to the Paris Convention in June 1964 but that had since become party thereto.

6. The countries of the Paris Union were consulted further as to whether they favored the convening of an international conference for the purpose of discussing the adoption of an agreement for the protection of type faces. At the same time, countries willing to act as host to the conference were requested to inform BIRPI accordingly.

7. Replies from 35 countries reached BIRPI.

(a) 19 countries declared that they were not in favor of convening such a conference: Austria, Belgium, Denmark, Finland, Gabon, Iran, Ireland, Kenya, Laos, Malawi, Norway, Rhodesia, South Africa (with the statement, however, that South Africa might later reconsider its position), Spain (with the statement, however, that Spain would participate in the conference, should it be convened), Switzerland (with the statement, however, that Switzerland might possibly participate in the conference, should it be convened), United States of America, Upper Volta, Viet-Nam, Yugoslavia (with the statement, however, that Yugoslavia would reexamine the question of its own participation in the conference, should it be convened).

(b) Two countries declared that they were not in a position to give an opinion on the subject of convening such a conference: Ceylon and Morocco.

(c) Two countries declared that they had no objections to the convening of a diplomatic conference, but that they were unable to promise that they would participate in it: Canada and New Zealand.

(d) Three countries declared that they favored the convening of a conference, provided that the majority of the Union countries, or at least a sufficient number of them, participate in it: Israel, United Kingdom and Zambia.

(e) Nine countries declared that they were in favor of convening a diplomatic conference: Czechoslovakia, France, Germany (Fed. Rep.), Greece, Hungary, Luxembourg, Netherlands, Sweden, Turkey.

(f) No country, in replying to the BIRPI circulars, declared that it would be willing to act as host country to the conference. Two countries, France and the Netherlands, proposed that BIRPI itself should convene the conference. The Netherlands also suggested that the matter might possibly be dealt with at the Vienna Conference.

8. It would seem that the following conclusions regarding the advisability of establishing a special agreement for the protection of type faces can be drawn from the results, as set out above, of BIRPI's consultation with the countries of the Union:

(a) In view of the information given in paragraph 7(d) and (e), it might be considered that nine, or perhaps even 12, countries favor the convening of a diplomatic conference for the purpose of adopting such an agreement. The number of favorable replies is, of course, somewhat low compared with the total number of countries belonging to the Paris Union, and this might lead to some apprehension regarding the proposed agreement. It would seem appropriate, in this connection, to call attention to the fact that the circular addressed to the countries of the Paris Union on August 25, 1967, by the Director of BIRPI contained the following comments:

"It should be noted that, if the number of countries members of the Paris Union interested in convening a diplomatic conference with a view to establishing a special agreement concerning the protection of type faces should remain relatively low, there might be a danger that third parties in other countries, which had refused to participate in the agreement, would use the type faces published pursuant to that agreement and that there would not be adequate means of combatting such use. The advisability of establishing such an agreement would seem therefore to depend to a certain extent on the number of participating countries."

(b) It is nevertheless a fact that certain Agreements already concluded within the framework of the Paris Union and now in force have only been ratified or acceded to by a limited

number of countries: there are only 14 countries party to the Hague Agreement Concerning the International Deposit of Industrial Designs and eight countries party to the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration.

(c) Moreover, in a memorandum addressed to the Director of BIRPI on May 6, 1968, Mr. John Dreyfus, President of the International Typographical Association, sets forth the reasons why he feels that the conclusion of a special agreement for the protection of type faces is both necessary and urgent. A copy of this memorandum is attached to the present report.

9. These are the factors which may be submitted to the Executive Committee for evaluation so as to enable that Committee to express an opinion on the advisability of concluding an agreement for the protection of type faces.

10. There are several solutions which might be envisaged in this connection:

(a) The conference could be held at the invitation of a country party to the Paris Union, which country would bear the expense of organizing and holding that conference. In this case, BIRPI would not be confronted with any serious financial problems. On the date of the writing of this report, however, no firm offers had been made by any countries of the Union.

(b) The conclusion of the agreement could, if the Austrian Government accepts this solution, be included in the program of the Vienna Conference. A suggestion along these lines was made by one of the Union countries in its reply to the consultation undertaken by BIRPI on the advisability of the agreement in question (cf. paragraph 7(f) above). This solution would also not cause any particular financial problems for BIRPI. However, as the Vienna Conference will be held only several years from now, the conclusion of the agreement would be delayed by the same amount of time, whereas the President of the International Typographical Association stresses, in his letter to the Director of BIRPI, the importance and urgency of providing effective protection for type faces now.

(c) Lastly, one might consider having BIRPI itself convene the conference, as was suggested by France and the Netherlands (see paragraph 7(f) above). BIRPI would then be faced with an acute financial problem. Taking into account the expenses of securing interpreters, translators and minute writers, a two-week conference would involve costs of the order of 100,000 Swiss francs. In view of BIRPI's tight budget, it is clear that, if this sum should be allocated for the holding of a conference for the protection of type faces, then other equally useful tasks would have to be postponed. The various possible uses of this sum should thus be weighed, and a decision taken as to which work seems to be the most important.

11. Lastly, it is known that the Council of Europe has considered the idea of taking up the matter of protection for type faces and of using the draft agreement drawn up by the Committee of Experts convened by BIRPI as the basis of a European convention to be concluded under its auspices. Following an agreement entered into between the Secretary-General of the Council of Europe, Mr. P. Smithers, and Professor G.H.C. Bodenhausen, Director of BIRPI, it was understood that the Council of Europe would suspend any work on this question until a decision was reached within BIRPI. It may be noted in this respect that, if it should be decided to establish a European convention under the auspices of the Council of Europe, then non-members of that Council which are particularly interested in protection for type faces, such as Hungary and Czechoslovakia, would be unable to participate in the elaboration of the convention. On the other hand, it should be observed that the draft agreement provides for the institution of international deposits of type faces and for the setting up of an administrative service similar to the one operated by BIRPI for the international deposit of industrial designs. It has been suggested that, even if the protection of type faces were to be ensured by a European convention, the administrative service might be organized within BIRPI. This solution does not seem to be acceptable, however, since the organization responsible for the convention should obviously also organize the administrative service relating to it.

12. The Executive Committee is invited to express its opinion on the following questions:

(a) Is it advisable that a special agreement, within the framework of the Paris Union, be concluded for the international protection of type faces?

(b) If so, and if no member of the Paris Union offers to act as host country to a special conference convened for the purpose of concluding such an agreement, would it be suitable--despite the delay this solution would involve as regards the protection of type faces, and subject to the approval of the Austrian Government--to include the possible conclusion of such an agreement in the program of the Vienna Conference?

(c) If not, should BIRPI convene a conference devoted to the possible conclusion of a special agreement for the international protection of type faces, and what budgetary provision should then be made?

(d) Lastly, in the event that none of the above solutions is accepted and the Council of Europe is therefore led to pursue its draft European convention on the matter, should BIRPI offer assistance as regards the administrative service to be set up under such a convention?

MEMORANDUM SENT ON MAY 6, 1968,
TO PROFESSOR G.H.C. BODENHAUSEN, DIRECTOR OF BIRPI,
BY Mr. JOHN DREYFUS, PRESIDENT, INTERNATIONAL
TYPOGRAPHICAL ASSOCIATION

Reports by four meetings of experts summoned to Geneva by BIRPI have made it clear why type faces merit international protection, and have recommended how such protection should be arranged.

The purpose of this brief memorandum is to explain why international protection for type faces has now become a matter of urgency.

For nearly five hundred years, type faces were manufactured in metal by almost identical craft methods. Only in the past ten years have entirely new methods of making type faces come rapidly into current use. These may be summarized under the following headings:

- 1) Filmsetting - using photographic film in place of lead;
- 2) Letter transfer sheets - a simple method for rubbing off individual letters onto paper or film, for subsequent reproduction;
- 3) Cathode Ray Tube system - whereby letters are generated upon a television screen, and are subsequently photographed onto film before making printing plates.

Using any of these new techniques, type faces can be copied cheaply and quickly, often by semi-skilled workers. This contrasts sharply with conditions during the years when printing necessitated the use of types cast in metal: for in those centuries, the copier had to go through all the highly-skilled and time-consuming stages of creation in which the original manufacturer of a type design had been involved.

But it is not only the rapid evolution of new techniques which makes the international protection of type faces a matter of such urgency. The population explosion and the ever-increasing number of literates in the world, creates an ever-larger market for the printed word - and therefore for type faces.

New type faces have been involved to accelerate the spread of literacy, such as the special Initial Teaching Alphabet for roman letters (of the pattern developed by Sir Isaac Pitman) or the Simplified Arabic (of the pattern developed in the Near East).

The pressures of advertising also lead to a constant demand for new type faces or (as in any field where fashion plays a role) for the recreation with slight modification of types which were fashionable in earlier periods of time.

It is impossible to provide extensive statistics relating to the production of new type designs, because in so few countries it is at present possible to obtain even national protection for type designs.

Understandably, the most reliable figures relate to Germany, where there exists a variety of local legislation to protect type designs. The figures for this area are:

1850 to 1914	-	69 new type designs
1914 to 1945	-	248 new type designs
1945 to 1967	-	221 new type designs.

It will be noted that the figures for the period since 1945 show a considerable increase over the previous periods.

It is impossible to cite comparable figures for other territories because few countries provide adequate national protection for type designs. Nevertheless, the scale of productivity in type designs in other countries, as well as the scale of plagiarisation of type designs, makes it abundantly clear that there exists an international need to protect type designs.

On the international scene, some further indication of productivity in type design can be judged from the results of the International Typeface Design Competitions recently organized by the firm TypoGraphic Communications Inc. of New York. These competitions attracted approximately 1100 entries, from which 30 designs were selected for awards and have been made available on Phototypesetter machines.

The proliferation of new typesetting machinery creates new outlets for designers of type faces, but this proliferation has the attendant danger that type faces can be copied with increasing speed and with decreasing cost. It is against this background that the need to introduce effective international protection for type faces must be judged.

The need for a Special Agreement to protect type faces was subjected to intense scrutiny during the four meetings of experts, referred to in the opening sentence of this memorandum. Only because existing national legislation is either non-existent or insufficient, and because the nature of type designs is not amenable to international protection by other means, was the text of the Special Agreement elaborated by the experts who met at the offices of BIRPI.

It is hoped that the resumé of facts in this memorandum, together with the examples cited, will make it clear why the problem of introducing effective international protection for type faces now requires a solution urgently.

6th May 1968.