



U.S. Copyright Law

INFO 4940/5940

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Multilateral Treaties; Fairness & Personality Theories

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Refresher

- Idea v. Expression
- International Copyright Framework: History
- Introduction of Multilateral Treaties



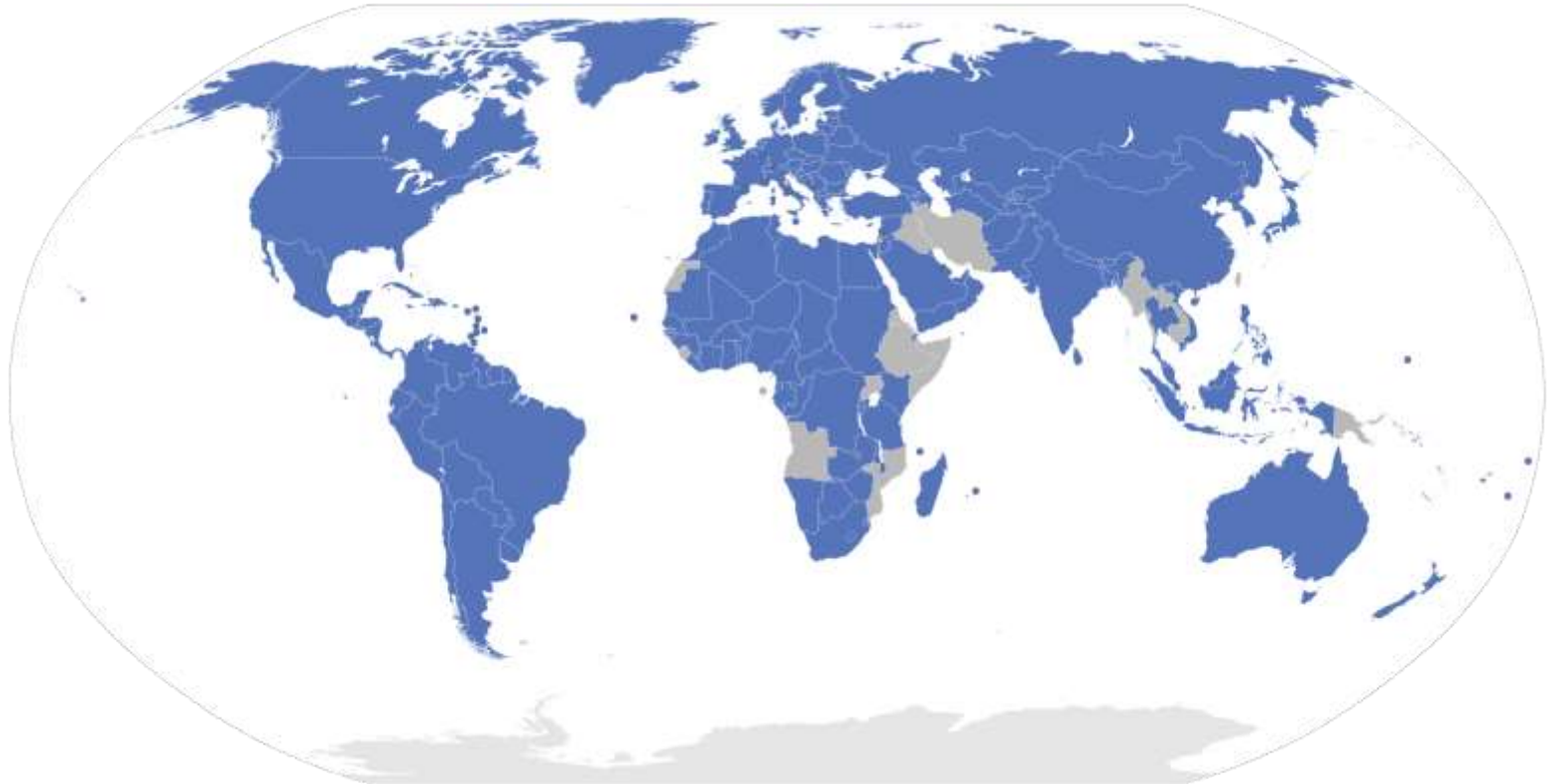
Multilateral Treaties

Multilateral Treaties

- Berne Convention
- Universal Copyright Convention
- Rome Convention
- Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)
- WIPO Copyright Treaty
- WIPO Performances and Phonograms Treaty
- WIPO Treaty on Exceptions for the Visually Impaired

Berne Convention

- First multilateral treaty to be adopted
- Began in 1858, adopted by 10 countries in 1886
- Revised 7 times
- Currently 179 countries are contracting parties



https://commons.wikimedia.org/wiki/File:Berne_Convention_signatories.svg

Berne Convention

- National Treatment Principle
 - Each member country must accord to protected authors the same rights it accord its own nationals
 - Principle does not apply to neighboring rights
 - Retaliation permissible against nationals of nonmember countries for lack of reciprocity

Berne Convention

- Prohibition on Formalities
 - Member countries may not impose on protected authors any administrative obligations as preconditions to the acquisition, enforcement, or continuation of copyrights
 - However, they can impose such obligations on works by their own nationals

Berne Convention

- Consists of sets of obligations, imposed on all member countries, to establish minimum levels of copyright protection.

TRIPS Agreement

- Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)
- Signed in 1994
- 164 Parties (all members of the World Trade Organization)

TRIPS Agreement Parties



https://www.wto.org/english/thewto_e/countries_e/org6_map_e.htm

TRIPS Agreement

- Differs from Berne Convention
 - Establish effective remedies when rights are violated
 - Includes a mechanism to compel member countries to comply with the obligations
 - Explicitly incorporates all obligations imposed by Berne except for “Moral Rights”

WIPO Treaty on Exceptions for the Visually Impaired

- AKA Marrakesh Treaty
- Requires member countries to adopt laws that permit reproduction and distribution of published works in formats accessible to the visually impaired and then permit organizations that serve the visually impaired to take them from one country into another
- Only treaty that requires members to limit the scope of copyright



Theory

Fairness & Personality Theories

Fairness Theory

"There are certainly no kind of property in the nature of things so much his own as the works which a person originates from his own creative imagination. And when he has spent great part of his life in study, wasted his time, his fortune, and perhaps his health in improving his knowledge and correcting his taste, it is a principle of natural justice that he should be entitled to the profits arising from the sale of his works as a compensation for his labor in producing them, and his risk of reputation in offering them to the public."

-Joel Barlow, 1783

Fairness Theory

- Law should give authors what they deserve
- Hard work rewarded, authors retain control
- Influential in common law countries (U.S., Great Britain, Australia, etc.)

Personality Theory

- Less concerned with compensating labor
- Focuses on protecting bond between artist and creation
- Moral Rights
- Unlike the system in the U.S.

Personality Theory



<https://commons.wikimedia.org/wiki/File:Berlinhbf.jpg>