INFORMATION AND DOCUMENTATION IN THE COPYRIGHT LAW OF THE GERMAN DEMOCRATIC REPUBLIC*

JOSEPH STRAUS
Member of the Staff of the Max-Planck-Institute for Foreign and International Patent, Copyright and Competition Law, Munich, BRD

1. Introduction

In the areas of interface between copyright law and modern technology, information and documentation are assuming a steadily growing significance. The enormous quantities of data to be found in works that, for the most part, are protected under the copyright statutes, do not, or, at any rate, should not, constitute an end in themselves. In keeping with their authors' intent, they should be capable of reaching their target — the reader or the listener — in the quickest and least complicated manner, and in an unaltered form. They should also be readily accessible to him at all times. It is here that information and documentation assume their role as intermediaries, a role that extends not only to processing and storing of data, but also to ensuring their availability. It does not come as a surprise that in the process, despite a common core of agreement as to the fundamentals, conflicts can arise between the interests of copyright owners and those of the information and documentation organizations. Such potential conflicts, of course, must be anticipated and dealt with by copyright law.

The copyright legislation of the GDR has already addressed itself to this task and allots considerable space to questions pertaining to information and documentation. A closer look at the system of norms devised in this connection seems appropriate. It will be useful for a better understanding of this system if its discussion were to be prefaced by an examination also of its antecedents and of some fundamental questions of the legislation currently in force.

1.2. Post-war developments and the Law of 1965

Just as in the Federal Republic of Germany, endeavors were made also in the GDR to make do initially with the old Copyright Act in Literary and Musical Works (LUG), the Copyright Act in Works of Art and Photography (KUG), and the Act on Publishing (VerlG), which dated back to 1901 and 1907. In the years after 1951, the only attempt at an adaptation to the changed social

*This article originally appeared in German in 86 UFITA 1980. Translated by Serge L. Levitsky, Parker School of Foreign and Comparative Law, Columbia University School of Law, New York, NY.
and economic conditions consisted in the enactment of a series of so-called frame contracts or standard contracts between publishers' organizations, on the one hand, and authors' societies, on the other. While the clauses of these contracts lacked the legally binding force of a collective agreement, they had nevertheless introduced significant changes particularly into the laws relating to publishing.

Towards the end of the 1950s, a growing conviction was asserting itself which held that under the combined impact of the social transformation and the rapid development of new technological means in fields relevant to copyright, a revision of the copyright legislation was unavoidable. From the very beginning the predominant view favored special legislation that would encompass also the law relating to authors' contracts. In particular, the new law was to make clear "that copyright was a right granted to the author by the State, which represented the will of the ruling class in this field, elevated into law". During the debates surrounding the drafts of a new copyright law, made public in 1959 and 1960, the underlying premise was that it was the inherent task of copyright to further and protect the interests of society at large in the development of literary, scientific, and artistic creation, and to assist in the unfolding of a many-faceted national culture. Keeping in mind these overriding interests of society, the personal interests of the author in his work were to receive a more effective protection than they have thus far been able to enjoy in the practice of any other social system. Along with such ideologically motivated efforts at "overcoming" bourgeois concepts of intellectual property, close attention has also been paid, in the course of legislative work as well as during jurisprudential debates, to problems, already perceived at an early stage, arising from the development and spread of modern techniques of reproduction, as well as to questions having to do with ensuring an effective and smooth operation of the documentation centers.

Against this background has the "Law on Copyright" (hereinafter URG) been enacted on 13 September 1965, effective as from 1 January 1966 (English translation in Copyright 1966, 150 ff). The URG, in keeping with the preliminary drafts and in "an unbridgeable opposition to the bourgeois antagonism of interests", proceeds from the fundamental principle of an "objective correspondence between the interests of the entire community and its authors in the process of artistic creation and of its dissemination". The tasks and functions of copyright as a system of legal norms ("objective copyright law") in the GDR are defined in the Preamble and in the basic principles laid down in Sec.1 of the URG:

"By its copyright law, the socialist State guarantees extensive protection to the rights of authors of literary, artistic and scientific works. It assures to writers, artists, men of science, and to all citizens, the prospect of devoting themselves in complete tranquility to their activities in the field of intellectual creation. At the same time, copyright protects and encourages the assimilation of art and science by all citizens, and their ever-increasing participation in the various aspects of cultural and intellectual life in the midst of socialist society" (para.3 of the Preamble).