

# Kluwer Copyright Blog

## The WIPO Files I: the quest to protect user rights

Teresa Nobre (COMMUNIA) · Monday, November 15th, 2021

For most of its existence, international copyright policy at the World Intellectual Property Organization (WIPO) has focused on the creation and harmonization of exclusive rights. This state of play was only disrupted in 2004, when Chile first proposed to WIPO's Standing Committee on Copyright and Related Rights (SCCR) that it explore the issue of limitations and exceptions (L&Es).

This led the Committee to embark on a decade-long process of commissioning expert studies relating to L&Es. As of today, more than a dozen studies have been commissioned, including comparative legal research and studies analysing the general issues faced by the potential beneficiaries of L&Es more broadly. These studies have focused on different categories of L&Es (i.e. for persons with visual impairments, for persons with other disabilities, for libraries, archives and museums, and for education and research institutions), as well as on cross-cutting issues such as existing flexibilities in international conventions and the impact of technological protection measures on L&Es.

In 2008, L&Es were established as a standalone agenda item of the SCCR. Member states started submitting work plans to advance the discussions and eventually also proposing drafts to engage in text-based negotiations, most notably a proposal for a [Treaty on Persons with Disabilities, Educational and Research Institutions, Libraries and Archives](#) by the African Group.

In 2009 the Committee initiated text-based negotiations on L&Es for persons with visual impairments, which led to the adoption in 2013 of the [Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled](#), the first WIPO treaty to focus on user rights. Despite having faced strong opposition from



Image by Ag Ku via Pixabay

rightsholders and developed countries, including the United States and the European Union, the Marrakesh Treaty is WIPO's fastest moving treaty, with [83 signatories](#) as of November 2021.

In the years that followed, Member states continued to exchange views on specific topics pertaining to L&Es for libraries and archives, for educational and research institutions and persons with other disabilities, in accordance with the 2012 WIPO General Assembly mandate that the Committee “continue discussion to work towards an appropriate international legal instrument or instruments (whether model law, joint recommendation, treaty and/or other forms) with the target to submit recommendations on limitations and exceptions”.

But at some point, the narrative put forward by several developed countries, including the EU, that the international agreement that had been reached for persons with visual impairments was exceptional, started to settle in. A new [work plan](#) for the L&Es agenda, proposed by the WIPO Secretariat in 2017, moved the Committee further away from initiating normative work on those L&Es. The WIPO Secretariat went back to commissioning studies and typologies, and for a year centered the discussions outside of the SCCR, convening three regional seminars and an international conference on the topic.

While the [report of those events](#), published at the end of 2020, identifies considerable agreement for international action on some priority areas, such as cross-border uses of copyrighted materials, particularly for research and education purposes, and whereas the shift to online and cross-border activities imposed by the COVID-19 pandemic has made such international action ever more urgent, we have yet to see a change in the positions held by developed countries. Developing countries, on the other hand, have found a renewed interest on the subject after the pandemic and at the last SCCR meeting, in July of this year, made strong calls for moving forward with normative work on this agenda item.

The next meeting of the SCCR is expected to take place in the Spring of 2022 and the Committee has agreed to hold an information session on the impact of COVID-19 on “the cultural, creative and educational ecosystem, including copyright, related rights, and exceptions and limitations”. Whether this session will lead to any meaningful action on L&Es very much depends on the structure and direction set by the WIPO Secretariat, who would need to show that it is equally committed to supporting private interests and public interest policies when engaging in copyright reform discussions at WIPO.

This is the first of a series of blog posts on copyright reform at WIPO. The second blog post will look into the current WIPO discussions on the protection of broadcasting organizations and on a number of other proposals aimed at raising the level of international copyright protection, such as a proposal for analysis of copyright related to the digital environment.

---

*To make sure you do not miss out on regular updates from the Kluwer Copyright Blog, please [subscribe here](#).*

## Kluwer IP Law

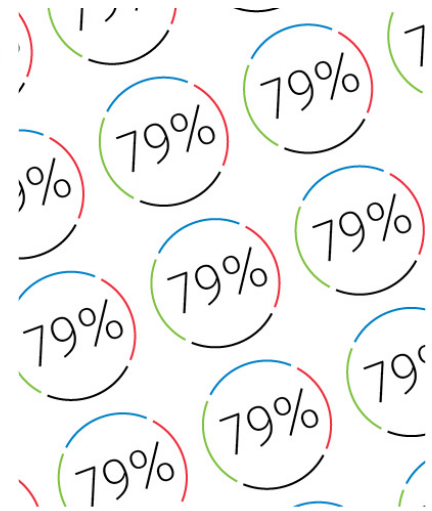
The **2022 Future Ready Lawyer survey** showed that 79% of lawyers think that the importance of legal technology will increase for next year. With Kluwer IP Law you can navigate the increasingly global practice of IP law with specialized, local and cross-border information and tools from every preferred location. Are you, as an IP professional, ready for the future?

Learn how **Kluwer IP Law** can support you.

79% of the lawyers think that the importance of legal technology will increase for next year.

**Drive change with Kluwer IP Law.**

The master resource for Intellectual Property rights and registration.



2022 SURVEY REPORT  
The Wolters Kluwer Future Ready Lawyer  
Leading change

This entry was posted on Monday, November 15th, 2021 at 9:53 am and is filed under [European Union](#), [Exceptions and Limitations](#), [Legislative process](#)

You can follow any responses to this entry through the [Comments \(RSS\)](#) feed. You can leave a response, or [trackback](#) from your own site.