

QUESTIONNAIRE – ALAI CONGRESS 2018 – MONTREAL

Since the congress theme should attract many copyright practitioners, the Canadian group has chosen to develop a questionnaire which you are asked to complete with succinct answers, in either **French, English or Spanish**. The answers will be compiled in an analytical table that will be given to congress participants so that they can leave with a document allowing them to quickly compare the situation prevailing in several countries.

It is therefore essential to complete the table below by briefly answering each question. We invite you to refer to the legal provisions that apply in your country, if any.

For national groups who would also like to provide additional information related to certain questions, we ask you:

1) to indicate "* see also answer No. X below" after the short answer that you have provided in the table.

2) to put your more detailed answer after the table.

Please note, however, that only the answers to the table will be compiled in the practical tool that will be given to the participants.

<p align="center">ARGENTINA</p> <p align="center">Alejo Barrenechea Nicolás Hermida Delia Lipszyc (collaborator)</p>											
<p>QUESTIONS FOR THE SUMMARY TABLE</p>	<p>1) Are statutory damages available? If so, please indicate the criteria for awarding them and the amount of such damages.</p>	<p>2) If punitive damages are available, indicate the criteria for awarding them.</p>	<p>3) Are class actions or class remedies available in copyright matters? If so, indicate in what circumstances they are used.</p>	<p>4) If seizures before judgment are available, indicate what gives rise to such procedures and the criteria for granting them.</p>	<p>5) Are there in your country 1) criminal remedies; 2) customs measures, in connection with copyright? If so, which ones?</p>	<p>6) Describe how circumvention of technological protection measures is dealt with, if such is done.</p>	<p>7) Is there a mandatory notice and notice regime or notice and take down regime for intermediaries in the case of alleged copyright infringement? If so, describe it briefly, and indicate if how it is dealt with differs based on which rights holder requests it.</p>	<p>8) Does the notion of secondary copyright infringement in the digital world exist in your country? If so, describe it briefly.</p>	<p>9) Indicate for which rights collective management is available.</p>	<p>10) With respect to collective management, indicate who sets the tariffs and how they are set.</p>	<p>11) Indicate whether copyright remedies are within the power of specialized courts or common law courts, and in the case of a mixed system, please specify in which cases an action should be brought before one rather than the other.</p>
<p>ANSWERS TO QUESTIONS FOR THE SUMMARY TABLE</p>	<p>Copyright Act 11,723 does not regulate statutory or pre-established damages.</p>	<p>The Copyright Act does not regulate punitive damages. The general legal order does not do either, except as</p>	<p>Class actions or class remedies are not available in copyright matters.</p>	<p>Seizures before judgment are available on Chapter called "On Preventive Measures",</p>	<p>Chapter called "Of the penalties", Section 71 to 74 of the Copyright Act typifies infringement of</p>	<p>The Copyright Act does not provide legal remedies against the circumvention of effective</p>	<p>The Copyright Act does not provide mandatory notice and notice regime or notice and take down regime for</p>	<p>The Copyright Act does not address it. There are some judicial cases without a single criterion that still</p>	<p>Collective management is regulated in Argentina with respect to the rights of public</p>	<p>The tariffs that SADAIC receives are established by the Board of Directors of said entity - usually in</p>	<p>Foreign natural and legal persons can litigate in the country, as well as nationals, complying with</p>

		provided in cases of consumer protection.		Section 79 of the Copyright Act. There are no different requirements than the general criteria for granting them.	copyright and related rights. The Copyright Act does not regulate customs measures, but it is provided by the Customs Code (Section 608 and 609).	technological measures.	intermediaries in the case of alleged copyright infringement.	allows understanding the existence of the notion of secondary copyright infringement in the digital world A judicial case is mentioned as an example TARINGA Case Nº 42.318 "Nakayama, Alberto s/ procesamiento", Cámara Nacional de Apelaciones Sala VI, Juzgado de Instrucción Nº44.- October 7, 2011. Facts and decision: Alberto Nakayama, Matías Botbol and Hernán Botbol through the portal "www.taringa.net" , offer anonymous users the possibility to freely share and download files whose content is not authorized for publication by the	communication of the authors and composers of musical works (SADAIC), writers of dramatic films, television, radio, choreography, pantomimic, journalistic, entertainment, scripts for the continuity of shows (ARGENTORES), of the cinematographic and audiovisual directors (DAC), of the performers in cinematographic and audiovisual works in the categories of actors and dancers (SAGAI), of the music performers fixed in phonograms and reproduced on discs or other media (AADI) and those of producers of phonograms reproduced on discs or other media (CAPIF). The collective management of reprographic	accordance with the business chambers - and cover all possible uses of musical works, although in some cases they are only minimal and the final amount is defined by the owner himself. The tariffs that ARGENTORES receives are established by the Board of Directors of said entity - usually in accordance with the business chambers - although in most cases they are only minimal and the final amount is defined by the owner himself. The tariffs that DAC receives are those fixed by Resolution 61/2010 Chief of Cabinet of Ministers (Published 03/11/2010). The tariffs that	the provisions of the respective Procedure Codes (Criminal Procedure Code and Civil and Commercial Procedure Code of the Nation). In the offenses provided for in Section 71 to 74 of the Copyright Act (11,723), the action may be initiated ex officio by the Public Prosecutor's Office. The lawsuit for damages for infringement of copyright can be deduced in a civil or commercial court and the complaint, based on Section 71 to 74 of law 11,723, in criminal court. There is no specialized court on copyright and related matters. There are also no special prosecutor's offices related to
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								<p>author, thereby facilitating the illegal reproduction of the material that is uploaded.</p> <p>The functioning as a library of hyperlinks justified the existence of the page that has a massive influx of users, receiving an economic return with the sale of advertising. They have allowed users to disclose links for the download of works whose intellectual property is protected, without being prevented by the administrators of the site, allowing its illegal reproduction.</p> <p>Beyond the fact that the links from which the illegally reproduced works were downloaded were located abroad, the truth is that the servers</p>	<p>rights (CADRA) and visual artists (SAVA) is also carried out.</p> <p>ARGENTORES. Sociedad General de Autores de la Argentina. General Society of Authors of Argentina. Act 20,115 (Published 31/1/1973), regulatory decree 461/73 (Published 31/1/1973). Carries out the collective management of the rights that correspond to writers of dramatic, cinematographic, television, radio, choreographic, pantomimic, journalistic, entertainment, scripts for the continuity of shows, both national and foreign, and their beneficiaries.</p> <p>SADAIC. Sociedad Argentina de Autores y Compositores de Música. Argentine</p>	<p>AADI CAPIF receives are those set by Resolution 390/05 of the Public Communication Secretariat (Published 12/09/2005).</p> <p>The tariffs that SAGAI receives are those fixed by Resolution 181/08 of the Public Communication Secretariat (Published 21/04/2008).</p>	<p>the matter. The actions on copyright issues are carried before common courts.</p>
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								<p>of "taringa.net" domain and its owners were domiciled in the Argentina, and the effects of the crime would have occurred in the national territory, so by virtue of the principle of ubiquity the application of Argentine criminal law was appropriate.</p> <p>The defendants provided the means for users to freely share and download files containing works without the respective authorizations of their authors.</p>	<p>Society of Authors and Music Composers. Act 17,648 (Published 03/07/1968). Regulatory Decree: 5.146/69 (Published 21/11/1969). Is responsible for the collective management of all rights that correspond to the authors and composers of both national and foreign musical works, and their beneficiaries.</p> <p>DAC. Asociación General de Directores Autores Cinematográficos y Audiovisuales. General Association of Directors Cinematographic and Audiovisual Authors. Decree 124/09 (Published 24/02/2009). Performs the collective management of public communication rights of national and foreign</p>		
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									<p>directors of cinematographic works and audiovisual works, and their beneficiaries.</p> <p>SAGAI. Sociedad Argentina de Gestión de Actores e Intérpretes, Asociación Civil. Argentine Society of Management of Actors and Performers, Civil Association. Decree 1914/06 (Published 12/27/2006). It performs the collective management of the sums that correspond by public communication to national and foreign performers referred to the categories of actors and dancers and their beneficiaries.</p> <p>AADI. Asociación Argentina de Intérpretes. Argentine</p>		
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									<p>Association of Interpreters. Decree 1671/74 (Published 12/12/1974). Carries out the collective management of the remuneration that corresponds to the national and foreign musical performers and their beneficiaries to receive and administer the remuneration provided in section 56 of the Copyright Act for the public performance, transmission or retransmission by radio and/or television of their performances fixed in phonograms and reproduced on discs or other media.</p> <p>CAPIF. Cámara Argentina de Productores e Industriales de Fonogramas. Argentine Chamber of Producers and Industrial Phonograms.</p>		
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									<p>Decree 1671/74 (Published 12/12/1974). It performs the collective management of the remuneration that corresponds to the producers for the public performance of their phonograms reproduced on discs or other media.</p> <p>AADI CAPIF ACR (Asociación Civil Recaudadora). Collecting Civil Association. Decree 1671/74 (Published 12/12/1974). It is in charge of the collection of the remuneration that corresponds to the performers (represented by the Argentine Association of Performers -AADI-) and to the phonographic producers (represented by the Argentine Chamber of Producers of Phonograms and</p>		
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									<p>Videograms - CAPIF-), for the communication to the public of phonograms.</p> <p>The sums collected by AADI CAPIF ACR are distributed in the following manner, according to Section. 5 of the mentioned decree 1671/74: I) 67% to the interpreters (distributed by AADI among the performers of all the levels that have intervened in the sound recordings fixed in phonograms and communicated to the public, corresponding -of the 67% mentioned- 45% to the main interpreters and 22% to the secondary interpreters), and II) 33% for the producers of phonograms.</p>		
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FURTHER QUESTIONS (OPTIONAL)

QUESTION: Are there recent legislative or jurisprudential developments in your country that would be interesting to share with the ALAI public?

ANSWER :

QUESTION: Are there any special remedies in your jurisdiction that, to your knowledge, are less or not available in other jurisdictions?

ANSWER :