

**“There, in the chords and melodies, is everything I want to say. The words just jolly it along. It’s always been my way of expressing what for me is inexpressible by any other means.”**

David Bowie (1947), English musician, actor, record producer and arranger

## THE ORIGINAL COPYRIGHT WAR

As we prepare to celebrate the birth of Christianity more than 2000 years ago, we thought we would open our holiday edition of Global Briefing by taking you back to the birth of copyright infringement in 561 AD and the tale of the Cathach of St. Columba.

The story tells of an early Catholic monk, Columba, who became involved in a copyright dispute with his mentor Finnian of Moville. Columba had hand-copied a book of sacred songs, known as a Psalter, which was owned by Finnian, but his teacher protested his right to keep the copy. The case was eventually brought before the King of Ireland who sided with Finnian declaring “to every cow her calf; to every book its copy”.

Displeased with the verdict, Columba decided not to hand back the book and this led to the Battle of Cúl Dreimhne in 561 AD during which thousands are said to have perished and the copyright infringer was exiled to Scotland. The church subsequently sainted both men, though, it should be added, not for intellectual property related reasons.

## Brussels

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### EUROPEAN PARLIAMENT PRESENTS STUDY FINDINGS

The European Parliament has revealed the findings of its study into cultural diversity and collecting societies. The study finds that while the EU objective of overcoming territorial segmentation of copyright management in the digital environment has been attained, there has also been repertoire fragmentation.

ICMP participated in the study which set out to assess how EU policies on copyright are affecting national collecting societies who are tasked with administering the rights of authors and other rightsholders. The issue is key to both music publishers and therefore ICMP national members.

The study focused on 5 countries – Belgium, Germany, Italy, Spain and the UK – and particularly looked at the effect that collecting societies had on the protection and promotion of cultural diversity in the music sector.

The main findings were discussed at a JURI Committee meeting at the start of December and further discussion is expected. The report suggests that any future EU rights management approach needs to include broad availability and access that balances the interests of rights holders and creators, is user-friendly, transparent and accountable. It also raised concerns that leaving the market to evolve in its own way may hamper the diversification of the music market in Europe.

Key findings include: collective management is often the most effective way to license rights; collecting societies often negotiate license fees, provide authorisation to exploit content and collect and distribute fees; collecting societies represent weaker creators and artists and support artist creation via cultural events; the mono-territorial, multi-repertoire licensing arrangements between societies have generally

hampered a more creative licensing regime in Europe; the 2005 Recommendation was a turning point which challenged the traditional structure of rights management and mutual representation agreements; the repertoires of smaller EU countries don't easily penetrate foreign markets due to linguistic and cultural issues.

The Parliament is due to launch a separate study on Piracy, which was not covered in this piece of work. An electronic copy of the study "Collecting Societies and Cultural Diversity in the Music Sector" is available for ICMP members to download on the ICMP website or can be viewed on <http://tiny.cc/ou76f>

#### **PRIORITIES OF SPANISH PRESIDENCY UNVEILED**

In anticipation of its EU Presidency which will start on 1 January 2010, Spain laid out its agenda and set priorities around the revision of the Lisbon Strategy with an emphasis on jobs and growth.

Working in a tripartite approach with the two countries which will follow Spain – Belgium and Hungary – the three Presidencies set priorities that will steer the EU into the middle of 2011, including a number of specific actions in the area of IPR, data protection and piracy.

The Presidencies announced their intention to develop a Counterfeiting and Piracy Observatory that would work to strengthen IPR protection and promote the fight against piracy. They will continue with the Anti-Counterfeiting Trade Agreement (ACTA) and in particular the border control measures, and review the Customs Regulations against goods suspected of infringing intellectual property rights, with a view to possibly amending them.

They will also examine the issue of net neutrality, work on network security and electronic commerce and develop a proactive and consistent approach to the protection of personal data.

The trio Presidencies also commit to focusing on a New Strategy 2010-2015 for the promotion of the Information Society. They will also monitor the development perspectives for the European digital library Europeana and the issue of the long-term preservation of European digital cultural heritage.

#### **PRESSURE FOR COPYRIGHT REFORM AS BARNIER MOVES INTO INTERNAL MARKET ROLE**

The newly appointed Internal Market Commissioner, Michel Barnier, takes on responsibility for EU copyright law at a moment when pressure is hotting up for the reform of Europe's fragmented system for copyright licensing. He will need to balance the protection of artists' livelihoods which are the concern of some publishers and collecting societies, with the wider objective of spreading creative content online. He will also need to evaluate whether a different approach to copyright levies is needed.

The fight against online piracy is also part of his portfolio. His native France has chosen to take a strong line and clamp down on file-sharers and other markets appear to be following suit with proposals on the table in the UK and incoming Presidency Spain pushing ahead with legislation at home.

In a statement ICMP Secretary General called for Mr. Barnier to provide an environment that encourages innovation and upholds the rights of composers and lyricists.

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**"Not only does copyright theft place jobs and businesses at risk in a sector dominated by SMEs but it threatens the very existence of Europe's creative industries and our rich cultural heritage", ICMP Secretary General Ger Hatton**

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## **ICMP ATTENDS CONFERENCE IN STOCKHOLM ON ENFORCEMENT OF INTELLECTUAL PROPERTY RIGHTS**

ICMP attended a Conference held by the Swedish Presidency of the EU on the Enforcement of Intellectual Property Rights in Stockholm on 15 of December 2009.

There was overwhelming consensus that piracy and counterfeiting have a detrimental effect on the EU economy and that strong enforcement of intellectual property rights is essential to ensure EU's future and to protect its competitive advantage of skills, knowledge, creativity and innovation. A number of Commission officials and Member State representatives spoke about the European Observatory on Counterfeiting and Piracy and the implementation of the Directive on Civil Enforcement of Intellectual Property Rights in Member States, as well as the forthcoming EU Directive for criminal measures. Presentations were also heard on the ongoing negotiations on free trade agreements and Anti-Counterfeiting Trade Agreement (ACTA).

In terms of moving forward, the Commission will publish a Report on the implementation of the Directive on Civil Enforcement in 2010 and will also draw up an impact assessment on the Proposal for an EU Directive for criminal measures. Meetings under the umbrella of the EU Observatory will continue in 2010 and an annual report will be published. ACTA is also set to conclude in 2010, with a meeting scheduled in Mexico in January and in New Zealand in April.

## **EU RATIFIES WIPO COPYRIGHT "INTERNET" TREATIES**

Two treaties that will make the worlds' copyright laws "fit for the internet" have been ratified by the European Union and its Member States.

It is hoped that the World Intellectual Property Organization's Copyright Treaty and Performances and Phonograms Treaty will add impetus to its current treaty - making work and rejuvenate the commitment to moving ahead on a high level of protection for creators and creative industries.

Internal Market Commissioner Charlie McCreevy proclaimed it "an important day for the EU" acknowledging that the treaties brought the protection of copyright and related rights up to speed with modern technologies.

## **Global**

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### **WIPO STANDING COMMITTEE ON COPYRIGHT AND RELATED RIGHTS HELD IN GENEVA**

Much of the agenda at the World Intellectual Property Organization 19<sup>th</sup> SCCR meeting being held in Geneva this week is devoted to exceptions & limitations and the possible Treaty for the Visually Impaired.

The main focus is on the scope of a questionnaire being developed for Member States, which now contains well over a 100 questions. The discussion on access for the Visually Impaired is ongoing with Brazil and others insisting on a normative approach. The US in its opening remarks on 15 December signalled a willingness to discuss all options. The EU led by the Swedish Presidency wants WIPO to first put together an information document on national solutions and made no reference to a possible Treaty.

The US Delegation's intervention on the Visually Impaired received applause mostly from copy-left and visually impaired unions. The US additionally recognised that some in the international copyright community believe that substantive limitations and exceptions would weaken international copyright law however the US doesn't share that point of view.

During its intervention, ICMP stated that it applauds the various initiatives undertaken by the WIPO Secretariat and the fact finding missions aimed at advancing collective knowledge on the scope of protection granted by copyright law around the world vis-à-vis people with disabilities and the visually impaired in particular. It also said that solutions need to be found to tackle this important issue and that it will review the studies commissioned with great interest.

ICMP welcomed the value of existing, flexible international norms as such flexibilities allow for punctual solutions, both normative and practical, aimed at addressing local issues. It further noted that the questionnaire includes a chapter devoted to questions relevant to access to copyrighted works by people affected by a disability, including the VIPs. According to ICMP, this chapter could perhaps be given priority since answers by Member States to these very questions will further advance our collective understanding as to the extent of existing protection and any possible loopholes. ICMP concluded its interventions by sharing the view and the suggestion made by the Delegation of Sweden on behalf of the EU and its Member States in calling for an information document outlining successful examples of systems at national level.

## USA

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### **ACTION AGAINST ILLEGAL WEBSITES CONTINUE**

The NMPA and MPA in the US have assumed a strong position against piracy over the past couple of years and taken down some 100 illegal websites offering sheet music and lyrics.

Furthermore, having watched some of the largest offenders subsequently set up shop on ISPs in countries outside of the USA, the American publishers have organized themselves to monitor repeat offenders.

The issue of Internet piracy of sheet music, guitar tab and lyrics will be discussed during the ICMP meetings in January.

### **LAWSUIT FILED AGAINST GOOGLE AND MICROSOFT FOR FACILITATING FILE SHARING**

A lawsuit has been filed against both Google and Microsoft by Blue Destiny records claiming that they “facilitated and enabled” the illegal distribution of its copyrighted songs.

The blues label claims its business has been devastated by the search engines and has filed against them and the website Rapidshare in a North Florida court.

Google does not directly link to these sites, but to a landing page carrying the URLs on Rapidshare. Microsoft Bing meanwhile provides a preview page which is there to prevent illegal downloading.

Blue Destiny asserts that the business success of Rapidshare is only achieved with the knowing assistance of the two search-engine giants. The issue certainly exposes a grey area and raises some ambiguous issues surrounding copyright law.

## ICMP News

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### **INTERNATIONAL PUBLISHING SUMMIT DRAWS PROMISING LINE-UP**

The second International Publishing Summit, which will take place during MIDEM on 26 January at 10:30 in Cannes, is taking shape and will feature some exciting topics and well known panellists.

Following the success of last year when some 500 people attended and interest was generated far beyond the music publishing business, ICMP is looking forward to the second edition. A meeting point for world publishers, where the most innovative practices and models will be unveiled and hot issues debated, the International Publishing Summit is a much awaited opportunity for publishers to proactively search opportunities to expand their business.

The final programme includes a discussion with Andrew Keen, author of “Cult of the Amateur”, which is likely to focus on the role of publishers in the digital age and the need for business to evolve in line with the new technical reality.

The summit will also feature a panel discussion on developing today’s publishing business from the new generation of publishers. Panellists will include Patrick Curley, founding partner and VP legal affairs of Third Side Music in Canada; Kagenobu Kuwahata, President of Nichion in Japan; Justin Shukat, General Manager and partner of Primary Wave Publishing from the USA; Hussain Spek Yoosuf, MD of Fairwood Music Arabia; and John Minch, CEO of Imagem UK. The session will be moderated by Impact Magazine’s Emmanuel Legrand.

The summit will end with a Publishers keynote speech with Universal’s David Renzer interviewed by Susan Butler of Music Confidential.

### **RSS FEED NOW AVAILABLE ON ICMP WEBSITE**

The content on the ICMP website is now also available as an RSS feed offering you an automatic update of news & industry issues, calendar entries, new members, pictures etc. To subscribe to the ICMP RSS content, you simply click on the RSS feed icon at the top of the homepage, next to the Downloads icon.

You can also view RSS content in Microsoft Office Outlook. To add an ICMP RSS folder to your Microsoft Office Outlook, go to “Tools”, “Account Settings” and then “RSS Feeds”. You then click on “New” and enter the following link <http://www.icmp-ciem.org/rss.xml>

After you subscribe to the RSS feed on the ICMP website and add the ICMP RSS feed to your Microsoft Office Outlook, headlines will appear in your RSS folder. RSS items appear similar to mail messages. When you see a headline that interests you, just click or open the item.

## Other News

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### **POPKOMM ANNOUNCES DATES FOR 2010**

Popkomm will take place in Berlin from 8-10 August 2010. It will be held at Berlin’s Templehof airport alongside the Berlin Festival as part of the Berlin Music Week. Full details of speakers and events will be released in due course.

## **CENTRAL AND EASTERN EUROPEAN MUSIC PUBLISHERS CONFERENCE**

The CEEMPC 2010 will be held in Riga, Latvia on 16 and 17 September 2010 - save the date.

## **CHINESE GOVERNMENT CLAMPS DOWN ON PIRACY**

Following the introduction of new anti-piracy legislation the Chinese Government has shut down some 530 BitTorrent sites in just one week.

However, many users claim that they do not visit these sites in order to download items for free, but because they wish to download films, books and music that have been banned by the Chinese regime.

In the wake of the shutdowns – which include *BT China* that boasted 50 million users – there has been a rush to other sites in anticipation of a total clampdown.

The State Administration for Radio, Film and Television (SARFT) claims that these sites need a specific licence. In a statement, the Government spokesperson stated that “Illegal audio-visual service websites have brought great harm to the media industry and the administration will continue to seek and destroy illegal internet audio-visual program providers.”

## **Upcoming meetings and events**

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**Next ICMP Policy Committee Teleconference in 2010** on 14 January at 17:00CET

**Next ICMP Board Teleconference in 2010** on 15 February at 17:00CET

### **January 2010 – MIDEM**

**ICMP Board meeting** from 9:30 until 13:30 on Sunday 24 January

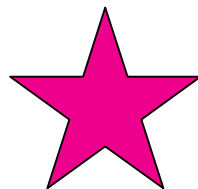
**General Assembly and AGM** from 14:00 until 17:30 on Sunday 24 January

**International Publishing Summit** from 10:30 until 12:30 on Tuesday 26 January

**ICMP Panel discussion “Music retailing and the twenty-first century publisher”** at Frankfurt Musikmesse on 24 March from 15:00 until 17:00

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**The ICMP office will be closed from 21 December until 4 January 2010.  
We wish everyone a happy holiday.**



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