



## Country Report – South Africa

Annual report to the IFLA CLM committee  
San Juan Puerto Rico 2011

### Copyright

#### *Revision/changes in existing law or regulations*

No amendments have been made to the Copyright legislation. The SA Dept. of Trade & Industry is, however, in the process of drafting a comprehensive Intellectual Property Policy for South Africa. As part of the implementation thereof, it will review and, where necessary, amend and update the IP laws of South Africa. An inclusive consultative process will be part of the review and revision procedure. The first stage of this consultative process was an Intellectual Property Indaba (meeting) for all stakeholders on 4 August 2011. It was a constructive and positive meeting and all discussions and recommendations will be taken into account when new amendments are drafted for the Copyright law and other IP laws.

The following matters will form part of the above discussions and process:-

Orphan works  
Mass digitisation  
Digital preservation  
DRM

#### *Legal Deposit*

The current law is up to date but any necessary amendments would only be possible once the Copyright legislation has been updated.

#### *Public Lending Rights*

The Academic and Non-Fiction Authors' Association of South Africa (ANFASA) has been promoting public lending rights for some years. Librarians are not in favour of introducing a PLR into South Africa for various obvious reasons in the context of a developing country. Although a draft document is on ANFASA's website, no formal document has been published for comment nor have any formal discussions begun with the Library Association of South Africa (LIASA) or the National Council for Library and Information Services (NCLIS), or other library organisations. Before the process can proceed, it is essential that all Libraries and Library Organisations be included in the discussions.

#### *Creative Commons*

South Africa aligned Creative Commons licences with its copyright framework some years ago. These licences are mainly being used and promoted in academic institutions. However, a lot more education about them is necessary before academics start using them as a means of publishing.

#### **Other matters**

At this stage, there is nothing to report on trade agreements, privacy issues, anti-terrorist laws, law cases and DRMs. However, it is hoped that in the course of amending the Copyright laws,

the current DRM provisions in the SA Electronic Communication and Transactions Act No. 25 of 2002 will be amended to include appropriate limitations and exceptions.

*The Intellectual Property Rights from Public Financed Research and Development Act*

This Act and its Regulations have been passed. Workshops and discussions are being held at various tertiary institutions with regard to the practical implementation of the legislation, particularly the new Regulations.

*Intellectual Property Amendment Bill (Traditional Knowledge)*

This is a very controversial Bill and there have been various public hearings, debates and many objections, as the majority of stakeholders oppose this Bill. The Bill went to Parliament and a feasibility study was then commissioned. After returning to Parliament, the Bill was subjected to more public debates and objections. Parliament has now commissioned two IP experts to give advice on the way forward for this piece of legislation.

### **Lobby activities**

On an institutional/personal level, I continue to lobby to various Government departments for more appropriate copyright and access to knowledge legislation. Many Government officials receive my information service "Copyright & A2K Issues".

LIASA has submitted statements to Government with regard to the controversial Protection of Information Bill, which the Government is trying to get passed in Parliament. There is great concern in South Africa that this Bill will access to information and will negatively affect the media and freedom of the press. See LIASA statement at <http://www.liasa.org.za/node/261>

### **Educational activities**

Copyright awareness workshops are offered on many university and school campuses.

### **Strategic plans for future**

These are mainly related to the Dept. of Trade & Industry's Intellectual Property Policy Framework and plans to amend the Copyright legislation and other IP laws in the next year or so. Also, at the Indaba on 4 August 2011, as mentioned above, it was agreed that South Africa should ratify the two WIPO Internet Treaties as soon as possible. It was also agreed that South Africa should not sign any Free Trade Agreements, with the US, or any other country, which requires adoption of TRIPs Plus provisions, extension of the copyright term, etc. Was also agreed that national law must be aligned with current international Treaties to which South Africa is a signatory, as well as the WIPO Development Agenda.