

BASIC PRINCIPLES **OF COPYRIGHT AND** **RELATED RIGHTS IN** **MEXICO**

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INTRODUCTION

- This presentation introduces copyright and related rights in Mexico for specialist and non-specialists.
- It explains in general terms the principles of copyright law and practices as well as describing the different types of rights that copyright and related rights protect in our country, as well as the limitations and exceptions to those rights.
- It also briefly covers transfer of copyright and provisions for enforcement.

WORKS PROTECTED BY COPYRIGHT

- Literary
- Musical
- Dramatic
- Dances
- Pictorial
- Sculptures and three-dimensional work of art
- Caricature and cartoon
- Architectural
- Cinematographic and other audiovisual works
- Radio and television programs
- Computer programs
- Photographic
- Applied art, including graphic or textile design
- Compilation works

REQUIREMENTS FOR COPYRIGHT PROTECTION

- Original creation
- Able to be disclosed or reproduced in any form or medium
- Fixed in a tangible medium of expression, regardless of their merit, purpose or form of expression
- Only a person may be deemed author

RIGHTS PROTECTED BY COPYRIGHT

Copyright protects two types of rights.

1. **Economic rights:** allow right owners to derive financial reward from the use of their works by others.
2. **Moral rights:** allow authors and creators to take certain actions to preserve and protect their link with their work.

ECONOMIC RIGHTS

The right to authorize or prohibit:

- Reproduction of the work in any form
- Communication to the public
- Public transmission or broadcasting
- Distribution of copies
- Importation
- Disclosure of derivative works

MORAL RIGHTS

The right to decide at any time:

- If the work should be disclosed and if so in what form, or should it remain unpublished
- The right to claim authorship of a work
- The right to object to any distortion or modification of a work
- Amend the work;
- Withdraw the work from the market
- To object to the attribution of a work not created by the author

DURATION OF COPYRIGHT

1. Economic rights:

- The life of the author and 100 years after his death
- One hundred years following the disclosure a work

2. Moral rights:

- Perpetual and do not prescribe even with the author's death

COPYRIGHT REGISTRATION

- The recognition of copyright and related rights shall not require registration or documentation of any kind or be subject to compliance with any formality.
- Practice has demonstrated that obtaining a copyright registration from the Mexican Copyright Office is a necessary action to enforce copyrights in our country, since the Certificate of Registration issued by such Institute constitutes proof of the existence and ownership of the copyrighted work.

TRANSFER OF ECONOMIC RIGHTS

- Transfer of copyright may take one of two forms:
 1. Assignment
 2. License
- Transfer shall be temporary and with the obligation that the author receives any type of payment
- Any transfer of economic rights shall invariably be concluded in writing
- Transfers shall be registered in the Public Copyright Register in order to be binding on third parties
- Transfer of economic rights shall be deemed to be for a term of five years. A term of more than 15 years may only be agreed upon in exceptional cases in which the nature of the work or the magnitude of the investment required justifies it

RELATED RIGHTS

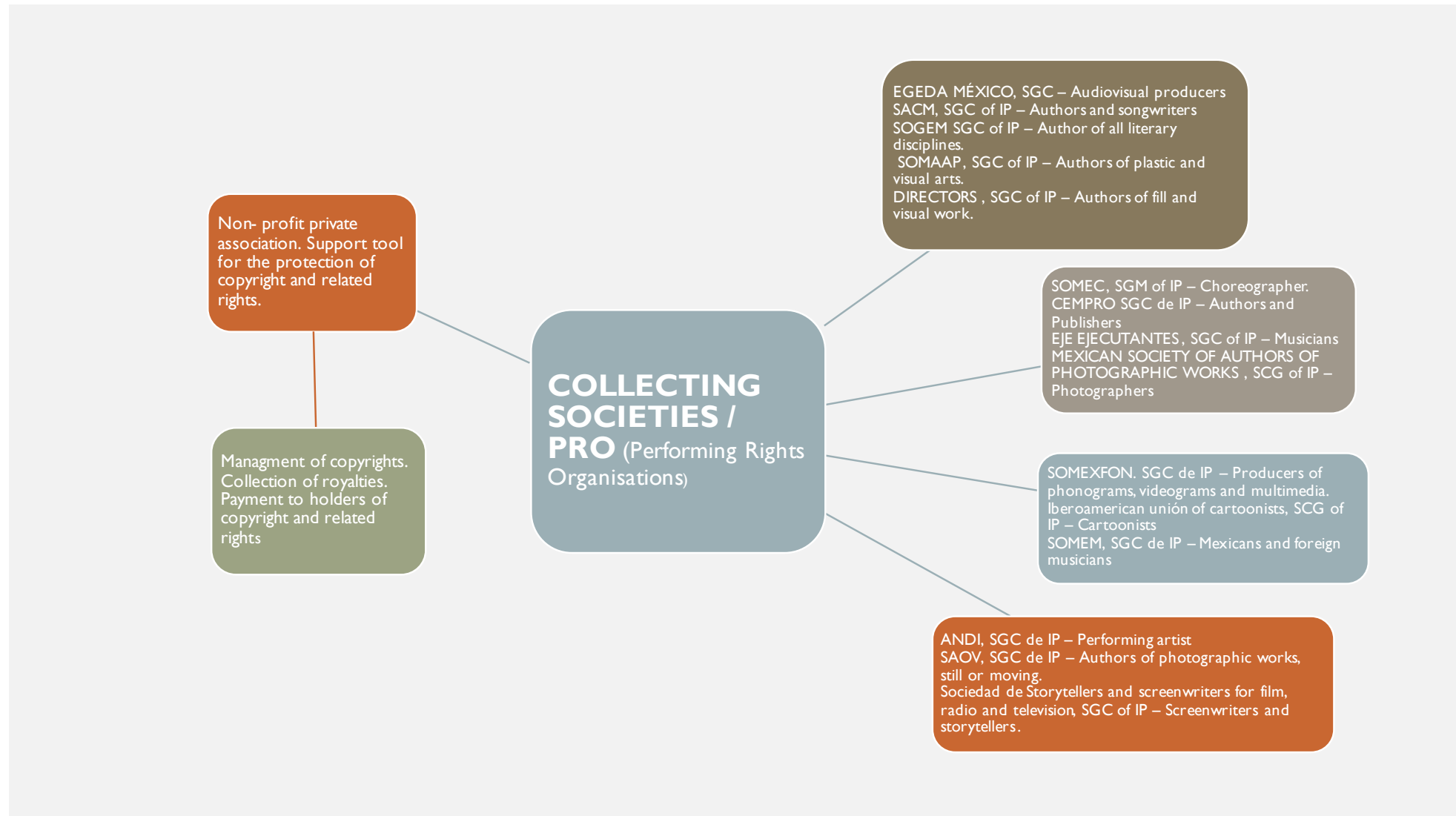
They protect the legal interests of certain persons and legal entities that contribute to making works available to the public or that produce works that contain sufficient creativity or technical and organizational skill to justify recognition of a copyright-like property right.

- Performers – 75 years
- Book Publishers – 50 years
- Sound recording producers – 75 years
- Videogram producers – 50 years
- Broadcasting organizations – 50 years

PUBLISHER RIGHTS



COLLECTIVE MANAGEMENT ORGANIZATIONS



TECHNOLOGICAL PROTECTION MEASURES, RIGHTS MANAGEMENT INFORMATION & INTERNET SERVICE PROVIDERS

Articles 114septies and 114octies

- Difference between Internet Access Provider (IAP) and Online Service Provider (OSP).
- Guarantee internet access.- Constitutional right.
- IAP.- They are not responsible if they do not initiate the conduct or select materials.
- OSP.- 5 conditions in order to have a SH

ONLINE SERVICE PROVIDERS

- Temporary storage carried out through an automatic process;
- Storage, at the request of a user, of material that is hosted on a system or network controlled or operated by or for an Internet Service Provider, or
- Directing or linking users to an online site using information search tools, including hyperlinks and directories.

ONLINE SERVICE PROVIDERS

Not responsible (SAFE HARBORS) as long as they comply with:

1. Withdraw or eliminate quickly and effectively (staydown) unauthorized content hosted on their systems
 - Once they become aware of the alleged infringement
 - Notice by the rightsholder
 - Competent authority resolution

ONLINE SERVICE PROVIDERS

2. Unilateral withdrawal in good faith.

- Prevent violation of laws
- Fulfillment of contractual or legal obligations
- Must notify the person who uploaded the content

3. Termination policy for infringing accounts

4. Include and not interfere with technological measures that protect or identify content

5. Storage and routing have no attributable financial benefit to the infringing conduct.

NOTICE AND STAYDOWN

NOTICE

- Name of the rightsholder or representative
- Identify infringing content
- Manifest interest or content rights
- Infringing content location

COUNTER NOTICE

- Content restoration request
- Prove ownership or authorization
- Manifest interest or content rights

MAIN FEATURES

- Notice and staydown mechanism (reasonable efforts)
- Don't have an economic benefit
- Between individuals
- Prove ownership through counter notice
- Fines for OSPs if they do not provide infringers information
- Termination of repeat infringers and fines.

Faculty Biographical Information

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Quetzalli de la Concha is a member of the Mexican Bar Association and of the Mexican Association for the Protection of Industrial Property. She is also the former (and first female) President of the Protection and Promotion of Author's Rights Mexican Center (CeMPro S.G.C), presently acting as Vice-president and legal adviser for this same organization. She received a Bachelor's Degree in Law, major in Intellectual Property from National Autonomous University of Mexico (UNAM), and her Masters Degree in Intellectual Property from the Latin American Faculty of Social Sciences (FLACSO), Argentina. Quetzalli is also an active member of the group of lawyers named "Online Against Piracy", convoked by the Mexican Institute for Industrial Property (IMPI). She currently has the honor of being the President of the Board of Directors of the Coalition for Legal Access to Culture (CALC). She has been published in specialized academic magazines in Mexico and Latin America. Also, she is a permanent collaborator for the Institute of Legal Sciences of National Autonomous University of Mexico, and a guest lecturer at IUS SEMPER University, Mexico. Quetzalli has directed workshops and conferences in national and international top-level events such as the International Book Fair of Guadalajara in Mexico, the Book Fair of Buenos Aires in Argentina; Intellectual Property Congresses in countries such as the Netherlands, Scotland and Japan; also participating in the VIII International Congress of the Academies of the Spanish Language celebrated in Córdoba, Argentina (2019). She was recognized in 2019 as one of the most influential female lawyers of her country by the Mexican legal magazine "Foro Jurídico". She is currently the Head of the Legal and Author's Rights Area at Penguin Random House Grupo Editorial.

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Javier Uhthoff, born in Mexico City, is an associate at Uhthoff, Gómez Vega & Uhthoff, S.C., and director of the copyright and entertainment law department. He obtained his law degree from Universidad Iberoamericana, from which he also obtained a postgraduate degree in Administrative and Procedural Tax Law. In 2016, he earned his master's degree in Intellectual Property, Information, and Technology Law at Fordham University School of Law in New York City, and in 2020, he earned a graduate certificate in Entertainment Law from the University of Southern California. He is an active member of the Mexican Bar Association, the Mexican Association for the Protection of Intellectual Property, and a member of the United States Copyright Society.

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Alfredo Tourné is a lawyer with more than 25 years of professional experience in Intellectual Property in the public and private sectors. He has a Master's degree in Intellectual Property and Information Society from the University of Alicante, Spain, as well as a specialty in Intellectual Property from the Pan-American University in Mexico. He has served as a professor of the subject of Intellectual Property in the Law degree and in the Master of Corporate Law, both taught at the Anahuac University. He held the position of Director of Protection against Copyright Violation at INDAUTOR, having as main functions the resolution of Copyright Infringements, the Regulation of Collective Management Societies, and the representation of Mexico before international organizations such as the WIPO and the WTO as well as carry out negotiations on copyright of various international treaties. He was a member of the Mexican government's advisors on copyright issues in the renegotiation of the USMCA treaties and the Free Trade Agreement with the European Union, as well as in the negotiation of the Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP). In 2020 he received the Global IP Champion recognition from the Global Center for Innovation and Policy of the United States Chamber of Commerce. Alfredo is an authorized lobbyist before the Senate and the Deputies Chambers. He presides the Copyrights and Related Rights Committee at the Mexican Association for the Protection of Intellectual Property; He is a member of the "Online Against Piracy" group created by the Mexican Trademarks Office (IMPI) and is also a member of the Coalition for Legal Access to Culture (CALC). Since 2011 he has been the Executive Director of APDIF MEXICO, an association that represents the music industry in Mexico and oversees planning and executing the anti-piracy campaign with the objective of protecting musical content in the digital environment and relationships with the different actors of the public sector.

THANK YOU



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