

No. 9908

UNITED STATES OF AMERICA
and
FEDERAL REPUBLIC OF GERMANY

Exchange of notes constituting an agreement regarding an extension of time to German citizens for fulfilling the conditions and formalities of United States copyright laws (with a proclamation by the President of the United States of America). Washington, 20 November 1964 and 12 July 1967

Authentic text : English.

Registered by the United States of America on 10 October 1969.

ÉTATS-UNIS D'AMÉRIQUE
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE

Échange de notes constituant un accord prorogeant en faveur des ressortissants allemands le délai accordé pour satisfaire aux conditions et formalités prévues par la législation des États-Unis en matière de droit d'auteur (avec proclamation du Président des États-Unis d'Amérique). Washington, 20 novembre 1964 et 12 juillet 1967

Texte authentique : anglais.

Enregistré par les États-Unis d'Amérique le 1^{er} octobre 1969.

EXCHANGE OF NOTES CONSTITUTING AN AGREEMENT¹
BETWEEN THE UNITED STATES OF AMERICA AND THE
FEDERAL REPUBLIC OF GERMANY REGARDING AN
EXTENSION OF TIME TO GERMAN CITIZENS FOR
FULFILLING THE CONDITIONS AND FORMALITIES OF
UNITED STATES COPYRIGHT LAWS

I

The Ambassador of the Federal Republic of Germany to the Secretary of State

EMBASSY OF THE FEDERAL REPUBLIC OF GERMANY
WASHINGTON, D.C.

November 20, 1964

Excellency:

I have the honor to inform you that the attention of the Federal Republic of Germany has been invited to paragraph (b), section 9 of title 17 of the United States Code, codified and enacted into law by the act of Congress approved July 30, 1947 (61 Stat. 652). This law provides for extending the time for the fulfillment of the conditions and formalities prescribed by the copyright laws of the United States in the case of authors, copyright owners, or proprietors of works first produced or published outside the United States of America who are or may have been temporarily unable to comply with those conditions and formalities because of the disruption or suspension of the facilities essential for their compliance.

My Government has requested me to inform you that, by reason of the conditions arising out of World War II, German authors, copyright owners, and proprietors of works subject to copyright or to renewal of copyright under the laws of the United States have lacked the facilities essential to compliance with and to the fulfillment of the conditions and formalities estab-

¹ Came into force on 12 July 1967 by the exchange of the said notes.

lished by the laws of the United States of America relating to copyright. This situation existed for several years since September 3, 1939.

It is the desire of the Government of the Federal Republic of Germany that, in accordance with the procedure provided in the above-mentioned paragraph (b), section 9 of title 17 of the United States Code, the time for fulfilling the conditions and formalities of the copyright laws of the United States of America be extended for the benefit of German citizens whose works are eligible for copyright in the United States.

With the view of assuring the Government of the United States of America of the existence in the Federal Republic of Germany (including *Land* Berlin) of reciprocal copyright protection for authors, copyright owners and proprietors who are citizens of the United States, my government has requested me to invite your attention to the copyright agreement between Germany and the United States of America signed at Washington on January 15, 1892,¹ and to the German Law of May 18, 1922, for the Protection of Copyright of Nationals of the United States of America (*Reichsgesetzblatt*, Part II, 1922, page 129). Further, a letter from the Chancellor of the German Federal Republic of Germany to the Chairman of the Allied High Commission, dated February 6, 1950,* indicated that the Federal Republic of Germany continues to consider such agreement as being in force and that the Law of May 18, 1922, continues to apply. The letter established the mutual understanding that reciprocal copyright relations continued in effect between the Federal Republic of Germany (including *Land* Berlin) and the United States of America.

Also, pursuant to Article 2 of Law No. 8, Industrial, Literary and Artistic Property Rights of Foreign Nations and Nationals, promulgated by the Allied High Commission for Germany on October 20, 1949, literary or artistic property rights in Germany owned by United States nationals at the commencement of or during the state of war between Germany and the United States of America which were transferred, seized, requisitioned, revoked or otherwise impaired by war measures, whether legislative, judicial or administrative, were, upon request made prior to October 3, 1950, restored to such United States nationals or their legal successors. Further, pursuant to Article 5 of Law No. 8, any literary or artistic right in Germany owned by a United States national at

¹ *British and Foreign State Papers*, vol. 84, p. 1186.

* Not printed.

the commencement of or during the state of war was, upon request made prior to October 3, 1950, extended in term for a period corresponding to the inclusive time from the date of the commencement of the state of war, or such later date on which such right came into existence, to September 30, 1949; and United States authors accordingly have suffered no prejudice to their rights in Germany because of the war.

Therefore the Government of the Federal Republic of Germany would appreciate it if the President of the United States would proclaim, in accordance with the aforesaid title 17 of the United States Code, that, by reason of the disruption or suspension of facilities during several years of the time after September 3, 1939, German citizens who were authors, copyright owners, or proprietors of works first produced or published outside the United States and subject to copyright or renewal of copyright under the laws of the United States were temporarily unable to comply with the conditions and formalities prescribed with respect to such works by the copyright laws of the United States, and that the time within which compliance with the conditions and formalities may be fulfilled is extended for German citizens.

Please find attached an official German text of this note. *

Accept, Excellency, the renewed assurance of my highest consideration.

H. KNAPPSTEIN

1 enclosure*

His Excellency Dean Rusk
Secretary of State
Department of State
Washington, D. C.

II

DEPARTMENT OF STATE
WASHINGTON

July 12, 1967

Excellency:

I have the honor to acknowledge the receipt of your note of November 20, 1964, in which you refer to paragraph (b), section 9 of title 17 of the United

* Not printed.

States Code, codified and enacted into positive law by the act of Congress approved July 30, 1947.

You state that for several years after September 3, 1939, by reason of conditions arising out of World War II, German authors, copyright owners, and proprietors lacked the facilities essential to compliance with and to the fulfillment of the conditions and formalities established by the laws of the United States of America relating to copyright.

You express the desire of the Government of the Federal Republic of Germany that, in accordance with the procedure provided in the above-mentioned paragraph (b), section 9 of title 17 of the United States Code, the time for fulfilling the conditions and formalities of the copyright laws of the United States of America be extended for the benefit of German citizens whose works are eligible for copyright in the United States of America.

You assure my Government of the existence in the Federal Republic of Germany of reciprocal copyright protection for American authors, copyright owners, and proprietors. You cite the circumstances under which American authors have suffered no prejudice to their rights in the Federal Republic of Germany because of the war. You add that the German copyright laws and our copyright agreement of 1892 continue in force.

I have the honor to inform you that, on the basis of the assurances set forth in your note, the President today has issued a proclamation, a copy of which is annexed hereto, giving effect to the extension proposed in your note, pursuant to and in accordance with the provisions of paragraph (b), section 9 of the aforesaid title 17. I confirm that the terms of this Presidential Proclamation will also apply to German citizens resident in Berlin.

Accept, Excellency, the renewed assurance of my highest consideration.

For the Secretary of State:
Anthony M. SOLOMON

Enclosure:
Copy of Proclamation

His excellency Heinrich Knapstein
Ambassador of the Federal Republic of Germany

[No. 3792] COPYRIGHT EXTENSION: GERMANY

By the President of the United States of America

A PROCLAMATION

WHEREAS the President is authorized, in accordance with the conditions prescribed in Section 9 of Title 17 of the United States Code, which includes the provisions of the act of Congress approved March 4, 1909, 35 Stat. 1075, as amended by the act of September 25, 1941, 55 Stat. 732, to grant an extension of time for fulfillment of the conditions and formalities prescribed by the copyright laws of the United States of America, with respect to works first produced or published outside the United States of America and subject to copyright or to renewal of copyright under the laws of the United States of America, by nationals of countries which accord substantially equal treatment to citizens of the United States of America; and

WHEREAS satisfactory official assurances have been received that, since April 15, 1892, citizens of the United States have been entitled to obtain copyright in Germany for their works on substantially the same basis as German citizens without the need of complying with any formalities, provided such works secured protection in the United States; and

WHEREAS, pursuant to Article 2 of the Law No. 8, Industrial, Literary and Artistic Property Rights of Foreign Nations and Nationals, promulgated by the Allied High Commission for Germany on October 20, 1949, literary or artistic property rights in Germany owned by United States nationals at the commencement of or during the state of war between Germany and the United States of America which were transferred, seized, requisitioned, revoked or otherwise impaired by war measures, whether legislative, judicial or administrative, were, upon request made prior to October 2, 1950, restored to such United States nationals or their legal successors; and

WHEREAS, pursuant to Article 5 of the aforesaid law, any literary or artistic property right in Germany owned by a United States national at the commencement of or during the state of war between Germany and the United States of America was, upon request made prior to October 3, 1950, extended in term for a period corresponding to the inclusive time from the date of the commencement of the state of war, or such later date on which such right came in existence, to September 30, 1949; and

WHEREAS, by virtue of a proclamation by the President of the United States of America dated May 25, 1922, 42 Stat. 2271, German citizens are and have been entitled to the benefits of the act of Congress approved March 4, 1909, 35 Stat. 1075, as amended, including the benefits of Section 1 (e) of the aforementioned Title 17 of the United States Code; and

WHEREAS, a letter of February 6, 1950, from the Chancellor of the Federal Republic of Germany to the Chairman of the Allied High Commission for Germany established the mutual understanding that reciprocal copyright relations continued in effect between the Federal Republic of Germany and the United States of America:

NOW, THEREFORE, I, Lyndon B. Johnson, President of the United States of America, by virtue of the authority vested in me by Section 9 of Title 17 of the United States Code, do declare and proclaim:

(1) That, with respect to works first produced or published outside the United States of America: (a) where the work was subject to copyright under the laws of the United States of America on or after September 3, 1939, and on or before May 5, 1956, by an author or other owner who was then a German citizen; or (b) where the work was subject to renewal of copyright under the laws of the United States of America on or after September 3, 1939, and on or before May 5, 1956, by an author or other person specified in Sections 24 and 25 of the aforesaid Title 17 who was then a German citizen, there has existed during several years of the aforementioned period such disruption and suspension of facilities essential to compliance with conditions and formalities prescribed with respect to such works by the copyright law of the United States of America as to bring such works within the terms of Section 9(b) of the aforesaid Title 17; and

(2) That, in view of the reciprocal treatment accorded to citizens of the United States by the Federal Republic of Germany, the time within which persons who are presently German citizens may comply with such conditions and formalities with respect to such works is hereby extended for one year after the date of this proclamation.

It shall be understood that the term of copyright in any case is not and cannot be altered or affected by this proclamation. It shall also be understood that, as provided by Section 9(b) of Title 17, United States Code, no liability shall attach under that title for lawful uses made or acts done prior to the effective date of this proclamation in connection with the above-described works, or with respect to the continuance for one year subsequent to such date of any business undertaking or enterprise lawfully undertaken prior to such date involving expenditure or contractual obligation in connection with the exploitation, production, reproduction, circulation or performance of any such works.

IN WITNESS WHEREOF, I have hereunto set my hand this twelfth day of July in the year of our Lord nineteen hundred and sixty-seven, and of the Independence of the United States of America the one hundred and ninety-second.

Lyndon B. JOHNSON