Offprint of article from

LIBER AMICORUM

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“ALAI has always been able to bring together people of the highest competence and to create among them all an atmosphere of mutual esteem which allows discussions on a very high judicial level. The orthodoxy of its positions, the impartiality of its reflections, the pureness of its intentions are the reason why ALAI is a creative centre for copyright doctrine and give an exceptional value to its views.”

Some years ago, my friend and colleague over many years Jan Rosén joined the exclusive set of ALAI Vice-Presidents. He had then already many years been one of the representatives of the Swedish Group of ALAI, originating from The Swedish Copyright Society,
and often, by proxy, also of other Nordic ALAI National Executive Committee Groups.2

In his honour, now that he has decided to retire from his Chair at the Stockholm University, I have attempted to bring together here, in an APPENDIX to this article in his honor, a complete list of all ALAI Congresses’ /Study Days’ Reports that have been printed in book-form as published from 1947 (inclusive) by ALAI or by its National Groups in the name of ALAI. They provide unique source material about copyright and its developments in theory and practice nationally and by and by ever more globally. For the periods 1878–1937 and 1942–1985 I have noted a number of ALAI/Berne-related events and documents owned by me or to which I have otherwise gained access over public sources.

There to be found are the results of ALAI’s efforts to bring further adherence to development by revisions and respect for the Berne Convention and its Union for the Protection of Literary and Artistic Works, originally of 1886, but also its endeavors regarding what has

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2 The official status of ALAI, as related to international copyright developments, is that of an international non-governmental organization. It is accredited as a NGO (Non Governemental Organisation) at WIPO (a special agency of the United Nations, the UN). Until 1970 this organization, in its role as administrator of the Berne Convention, worked under the name of the United Bureaux for the Protection of Intellectual Property, BIRPI. In 1998–1999 WIPO set up a “Standing Committee on Copyright and related Rights”. It meets regularly in Geneva, a 30th Session to be held June/July 2015. The close connection between ALAI and WIPO has always been manifested by invitations to WIPO to be represented at ALAI Executive Committee meetings, Congresses and Study Days, and invitations to ALAI to be represented at the Standing Copyright Committee Meetings and others of WIPO. A similar relation exits regarding UNESCO, administering the Universal Copyright Convention of 1952 to which the United States had adhered already on September 16, 1955.

The first Nordic Groups to send representatives to ALAI Executive Committee meetings after the 2nd world war were the Norwegian in 1949 and Danish in 1950, followed by the Swedish in 1952, and most lately, in 2015, by the Icelandic Group. A Finnish group existed already in 1928.

The number of national groups forming the Executive Committee has arisen from verified 5 in 1948 (France, Italy, Norway, Netherlands and Switzerland) to 31 in 2015 (Argentina, Austria, Belgium, Brazil, Canada, Colombia, Croatia, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Israel, Italy, Japan, Mexico, Netherlands, Norway, Paraguay, Portugal, Spain, Sweden, Switzerland, United Kingdom, United States and Uruguay). ALAI also has a substantial number of coopted members.
followed in its track, like the TRIPS in 1994, the WCT and WPPT, both in force in 2012, the Beijing Treaty in 2012 and the Marrakesh (VIP) Treaty in 2013, all referring back to Berne.3

After the APPENDIX, I shall, in an EXCURSUS, feigning modesty, followed by an ENVOI to encourage Jan Rosén, bring to remembrance one particularly Nordic-inspired, although not widely known, incident, where ALAI-“specialists” successfully stood up for US adherence to the Berne Convention and Union.

Recent copyright developments lead up to drawing attention to Jan Rosén’s currently chaired ALAI-initiatives to urge respect for the Berne Convention in the European Court system by heading the work of a succession of ALAI Executive Committee Study Groups to that effect.4

3 The respective National Group of ALAI (a national Copyright Society) has over time been individually responsible for its congresses etc. under the name of ALAI and also for the initial distribution of Congress and Study Day publications to other Groups or members for further handling of the spread by these Groups.

No complete list over such books seems to have been published and no public library known to me, not even that of the ALAI Secretariat in Paris, possesses but incomplete sets of these extremely informative publications. The library of WIPO is presently (alerted in June 2015) developing its collection of ALAI-related material for the period of 2000 and onwards. I have also tried, but with very slight success, inter al., the French National Library, Paris, with its French extensions over the Net (holding mostly pre-first-world-war publications), the Bodleian Library, Oxford, the US Library of Congress, Washington, and the very helpful library of the Max Planck Institute for Innovation and Competition, in Munich (until recently known as Max-Planck Institut für ausländisches und internationales Patent-, Urheber- und Wettbewerbsrecht; inbetween, for some time, modernized in English to refer to “Intellectual Property, Competition and Tax law”). It never seems to find a suitable English name for its real identity!

With very few exceptions, I have over the years been able to collect analogue copies for my own research library. They are listed here in the APPENDIX together with some ALAI Bulletin Copies as mentioned in the text. The content of other documents has been made known to me by colleagues or targeted research.

4 ALAI Executive Committee: 1) Report and Opinion 15 September 2013, “on the making available and communication to the public in the Internet environment – focus on linking techniques on the internet”, 2) Opinion17 September 2014, “on the criterion “New Public”, developed by the Court of Justice of the European Union (CJEU), put in the context of making available and communication to the public”. Both documents can be downloaded from ALAI’s homepage http://www.alai.org; the first document is also published in NIR Nordiskt Immateriellt Rättsskydd 5/2013 pp. 512 et seq., 3) “Report and Opinion on Berne-compatible reconciliation of hyperlinking and the communication to the public right on the
My own interest in ALAI, its work and its spirit, as related in particular to the Berne Convention and its Union, took off in 1964, when I was given the opportunity to assist, as Congress Secretary General, professor Seve Ljungman, who was then one of the Vice-Presidents of ALAI, in his preparations as Chairman of the Swedish ALAI group (=the Swedish Copyright Society) for the diplomatic Stockholm Conference 1967 to revise the 1948 text of the Berne Convention of 1886. From 1982 until 2010 I was one of ALAI’s four Vice-Presidents.5

Since the beginning of the 1960s, I have followed closely the work of ALAI in its activities related to the progression of copyright developments under the Berne Convention, and ever more widely so internationally, as one of the Nordic experts in the work of the Bureau and the Executive Committee of ALAI and, for a number of years representing ALAI at WIPO meetings in Geneva.

I should have liked to engage in a more far-reaching project than this present one, by putting ALAI history against Bern Union or Bern Copyright Convention history more generally, but the Festschrift format is not the ideal choice for such an endeavor. Hence, I

internet”, 17 June 2015. These three reports were preceded by a Report and Opinion 14 January 2012 on “Determination of the Country of Origin when a Work is First Publicly Disclosed over the Internet”.

5 The Bureau of ALAI shall now – under its Statutes of 1980 – consist of a President, four Vice-Presidents, of a different nationality and other than that of the President, a General Secretary (earlier Secrétaire Perpétuel) and a Treasurer. Another two vice-presidencies were added informally in 2000. It can be seen as a tradition for the Bureau of ALAI to have at least one Vice-President from a Nordic country. Nordic Vice-Presidents, listed here as from 1945, have been, in alphabetical order: Erik Daehlin (1959–1961; Norway), Torwald Hesser (1963), myself (1982–2010) and Seve Ljungman (1965–1983; all three Sweden), Torben Lund (1952–1956 and 1963; Denmark), Sture Pettrén (1961–1972 and Jan Rosén (2010 – both Sweden; Sture Pettrén 1959–1964 as 1st Vice-President). Among a great number, over time since 1876, of Honorary Members of ALAI (the first to be elected was, as well known, the French author Victor Hugo), have been listed: Seve Ljungman (Sweden), Ragnar Meinander (Finland) and myself. The Presidents of ALAI have been, counted from its foundation: Victor Hugo (Honorary President, 1878), Jose da Silva Mendes Real 1878, J. M. Torres Caicedo 1880–1885, Louis Ulbach 1881–1889, Louis Ratisbonne 1888–1890, Eugene Pouillet 1890–1905, Georges Maillard 1905–1942, Marcel Bouet 1946–1971, Henri Desbois 1972–1980, Georges Koumantos 1981–1996, Victor Nabhan 1996–. The next election, for five years, of President will take place in 2016, foreseeably in Rome.
shall not plunge into the depths of history or details of or about the Berne Convention itself from the date when it was signed on September 9, 1886 (in force December 9, 1887) until the present day. The period is covered by mountains of literature, the most prominent work published about the Berne Convention proper being Sam Ricketson’s monumental book “The Berne Convention for the protection of Literary and Artistic Works: 1886–1986”, first published in 1987.  

Nevertheless, I cannot refrain from a reminder of how the ALAI/Berne connection was initiated in a Nordic setting:

The idea of what became the Berne Convention will have been brought to substance in Rome in May 1878, in a trattoria at the foot of the Capitol Hill, “émergée …d’une bouteille de Chianti comme la Venus Anadyomène de l’écume de mer”, during a discussion between three ALAI members: a French journalist, then Secretary of ALAI, a German and – noteworthy – the Norwegian publisher Frédéric Bätzmann (said to have paid the bill); at the Executive Committee meeting 1888/1899 he was member of ALAI’s Honorary Committee).

ALAI was borne on July 28, 1878, by decision at the “Congrès Littéraire International”, Victor Hugo presiding. Already before then, in 1865, as also thereafter in 1879 and 1881, France and Sweden/Norway signed bilateral obligations about mutual protection of copyright.

For the time since, I do not feel inclined to add much here to what has already been evidenced regarding the relationship from an ALAI point of view to what has been, for the period until the end of the 1970s, conscientiously covered by Claude Masouyé, of WIPO,

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7 Words of Aloïs Troller, Honorary Member of ALAI, in his inaugural address to the Congress for the Centennial of the Berne Convention in Berne 1986.

8 Years when the Nordic countries became members of the Berne Union: Norway 1896, Denmark 1903, Sweden 1904, Finland 1928 and Iceland 1947.
in his article “The Role of ALAI in the Development of International Copyright Law”, Copyright, April 1978 p. 120 et seq. It follows ALAI step by step from its role played in the inception of the Berne Convention, past its mini-revision in Paris 1971, on to the 1974 Brussels Satellite Convention. Masouyés article connects well to the one by Renée Virginie Blaustein, of the Paris Bar, also Administrative Secretary to ALAI over many years, “The International Literary and Artistic Association”, published in the same WIPO Journal, Copyright, February 1978 p. 70 et seq.

ALAI contributions to later Berne Union related events can be found in its own Groups’ Congresses’ and Study Days’ reports etc. as listed here in the APPENDIX as well as, to some extent also, on the ALAI home page http://www.alai.org.

However, I shall here make short mention of ALAI events, as reported by itself, in the period from 1878 until 1937 and then from 1947, when it resumed its work after the 2nd world war. Before 1947 and until 1985 it was almost entirely centered on Berne related projects and developments.

**ALAI and Berne 1878–1937**

Between 1879 and 1886, the year of birth of the Berne Convention, ALAI held congresses in London 1879, Lisbon 1880, Vienna 1881, Rome 1882, Conference in Berne and Congress in Amsterdam 1883, Congresses in Brussels 1884, Antwerp 1885 and Geneva 1886. For the Paris Universal Exhibition in 1889, ALAI published a volume “Association Littéraire et Artistique Internationale – son histoire – ses travaux 1878–1889”. Since Geneva, ALAI international meetings can be counted to 22 until 1914. The ALAI’s 4th Série Bulletins cover the period 1919–1924 (ALAI Bulletin No 1, April 1925). After the war interruption in 1914–1918, there were congresses in Paris 1925, Warsaw 1926, then also a meeting in Prague

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to found a Czech ALAI group (4th Série Bulletins No. 4, 1926), Lugano 1927, Rome 1928, Belgrade 1928, Budapest 1930, Cairo 1932, Montreux 1935, and Paris (said to have been the 39th) in 1937. All earlier congresses are reported in ALAI’s 1st – 4th Série Bulletins 1878–1937, covering the period 1878–1937, leading up to the 5th Série Bulletins (printed Paris 1949–1974) No 1 (1946–1948) – 9 (1972), and commented on, in succession, in the 5th Série Bulletins No 1 (pp. 1–203) on pp. IX–XV in an introductory chapter “Historique”.

The Bulletins give evidence of ALAI as a fundamentally driving force behind the Berne Convention Acts and Revisions 1896, 1908, 1928 and 1948, up to the times for preparations for the 1946 Washington Interamerican Copyright Convention and the 1952 Universal Copyright Convention.

**ALAI Reborn 1947–1985**

In 1947, ALAI, officially reestablished by the French Minister of the Interior on Mai 15, 1948, as “Association étrangère”, reformed its Executive Committee and Bureau and prepared under its remarkably efficient President Marcel Boutet, a close friend to the prominent Swedish Copyright expert Sture Petrén, to continue its international work, in particular by means of congresses/conferences and study days. It had almost entirely been discontinued after the 39th Congress in Paris June 15–19, 1937.

The work leading up to the ALAI Study Days in Lucerne in 1948 (see APPENDIX), and a short retrospect about ALAI history, already mentioned here, is presented in the 5th Série 1946–1948, Bulletin No. 1 (F).10 For the time thereafter until 1986, about the

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10 An (F) in this text indicates that the document is only available in French language. In 1974, ALAI set out to publish a series of “Fascicules” (F), the first named Bulletin No. 1, April 1974, and a second ”2ème Fascicule”, 6–7 Février 1975”. The fate of this miméographed series remains unknown. I have found an article (F) of mine about “La réprographie en droit d’auteur suédois” in the second one. Perhaps this one killed this ALAI fascicule project? A booklet, published by ALAI in 1993, “L’Histoire de l’ALAI depuis la première guerre mondiale, exprimée en résolutions, commentaires et vœux” (F), collected by the Dutch Executive Committee member Rob du Bois, contains such texts published from 1951 to 1993. Reprinted such
history of ALAI-originated meetings, I shall let the documents, here listed in the APPENDIX as published in the name of ALAI, tell their story.

**ALAI 1986—**

Over its lifespan after the Brussel and Stockholm/Paris revision Conferences in 1948 and 1967/71, ALAI has developed from an efficient, basically French inspired driving force, by tradition, culture and language in times of Marcel Boutet, to become a global watch-dog, looking around to render support to its national groups’ ambition to harbor, in succession and geographical spread, yearly conferences or study days’ programs over themes selected by them and voted for by the Executive Committee. ALAI became a somewhat scholarly mastered center for copyright doctrine with national reports and discussions among copyright experts brought from all over the world in attractive locations, to be published by its respective administering national Group; see APPENDIX.

1986 has justly been said to have been a watershed year, the point at which the ‘old’ Berne Union had reached its fullest bloom before entering into the brave new world of personal computers, digital media, on-line communications and trade negotiations, to mention only some of the significant post-1986 developments. Since then, all preparative stages of international treaties etc. in the field of Copyright, widely taken, have been currently reported to meetings within the Executive Committee of ALAI. Also, one or another ALAI rep-

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resentative has been chosen to act for ALAI as an individual expert at meetings of international bodies, unbound by other fetters than allegiance to the current ALAI philosophy, as offered at its usually biannual Executive Committee meetings and its yearly Congresses/Study days.

Nevertheless, alas!, already in 1986, ALAI had started to lose weight at top political levels, reluctant of taking, if not holding back on, resolutions stating its own opinion, and sometimes victim of belated publication or failed distribution by its respective Groups to members and other interested parties of its Congress and Study days books after events. It became remarkably slow to apply, in its own administration, its already early acquired expertise about the effects on copyright issues of the expanding digitization. In recent years this has gradually been taken due care of.\(^{12}\)

And now, suddenly, we see the watch-dog, expecting revitalization of original right-holders’ rights and respect for the values of the Berne Convention, gnawing at the bones of the Court of Justice of the European Union!

**Excursus**

I use this occasion to call to mind an incident, reflecting ALAI furtherance of the cause of the Berne Convention, in addition to such information about Berne Union-related events as my APPENDIX is intended to facilitate access about. I venture to tell the story, because “why not show effect of raising the ALAI banner?”

It is about why the United States chose to adhere to the Berne Union, in consequence of a meeting at WIPO Headquarters in Geneva on November 26, 1987.\(^{13}\) I had been called by Dr. Arpad

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\(^{12}\) A number of reports to the Executive Committee of ALAI from individual members about EU- and WIPO-copyright matter under the title “International Information” 2001 – and “National information”, mostly about recent developments in the countries of numerous ALAI Groups from 2006 and onwards as a few Resolutions and Reports, starting 2003, are currently listed on ALAI’s home page [http://www.alai.org/en](http://www.alai.org/en).

\(^{13}\) Extract from “Hearings before the Subcommittee on Courts, Civil Liberties, and the Administration of Justice of the Committee of the Judiciary House of Representatives. One hundredth Congress. First and Second Sessions. H.R. 1623. Berne
Bogsch from the ranks of the Bureau of ALAI together with Jukka Liedes, since 1985 President of the Finnish Copyright Society/the Finnish ALAI Group, to appear, as “European specialists”, before the meeting of the "Subcommittee on Courts, Civil Liberties and the Administration of Justice of the Committee of the Judiciary House of Representatives”, titled “Roundtable discussions on United States adherence to the Berne Convention”.

Three years later, U.S. Register of Copyrights Ralph Oman told me that my speech, recorded as an expression of my personal opinion in reply to an invitation to speak by Robert Kastenmaier, who at the event chaired the U.S. delegation, convinced the United States of America, by its representatives present at that meeting, to join the Berne Union. The decision to adhere took some time to sift down the lines of politics, but March 1, 1989, the U.S. did join.

If the story is true, and I have good reason to believe that it is, I am happy to let it be known as the crowning of my professional life in defense and propagation of authors’ and other creators’ rights, widely taken.14 I believe that what we then stood for, Jukka Liedes and I, can still serve as workable language, balancing “ALAI Copyright Philosophy” for markets of rights more generally and now as an encouragement to Jan Rosén, valiant standard-bearer of ALAI, not to be overwhelmed by his retirement.

Appendix

ALAI Conferences/Congresses (C), Study Days (SD)15 1948–1948 Lucerne SD: Mai 5–9, 1948. I. Preparatory work to the revision of the Berne Convention by the diplomatic conference in Brussels. II. The


14 The effect of my speech was stated as a fact and in public by Ralph Oman, on April 7, 1990, at the Berlin Copyright Conference, and it is in part summarized in IIC Vol. 23 No.1/1992 on p. 72. Also, idem, “The Impact of the Berne Convention on U. S. Copyright”, Practising Law Institute, New York City, 16 October 1996, p. 19.

15 Titles within brackets are the original ones or translated by me into English. Descriptions of content themes are selected by me, often leaving out some, even most interesting or important ones, for reasons of lack of space.
results of the Brussels Revision Conference June 5–26, 1948. III. Pre-
paratory work to the establishment of a global system for unification or
harmonization of copyright laws, treaties and conventions. 5e Série
1952 Nîmes C: April 16–20 1952. I. The pre-project to the Universal
Copyright Convention. The protection of neighbouring rights (pre-
project Rome November 17, 1951). II. The results of the Geneva Inter-
governmental Conference August 18 – September 6, 1952. National
developments: Internordic/Danish, Luxemburg, Bulgaria, Paraguay,
Turkey, France. 5e Série 1951–1955, Bulletin No. 3, pp. 1–281. (F) (R).
1954 Monte Carlo C: September 10–14, 1954. Pre-project to the Rome
Convention on neighbouring rights 1961. The coordination of interna-
tional agreements and resolutions about copyright. Film problems and
1956 Amsterdam C: September 3–8, 1956. Recent legislation and projects.
Copying for private use by magnetophones and photocopying. Protec-
tion of neighbouring rights. Protection of works of applied art, designs
and models. 5e Série 1955–1958, Bulletin No. 4, pp. 2–166. (F) (R).
works. Copyright and television. Copyright and the graphic arts. Con-
crete and electronic music and copyright. Authors’ collecting societies
from a utility point of view. Protection of applied arts, designs and
International protection of applied art, design and models. Present
film, radio and television problems. Neighbouring rights. Taxation of
1961 Florens C: September 11–16, 1961. Concentration on neighboring
rights, film copyright, deigns and models as well as the revision of the
German Copyright law. Recent Nordic legislation. Studies to revise the
US copyright legislation. 5e Série 1959–1965, Bulletin No. 6, pp. 7–
163. (F) (R).
1963 Munich SD: October 9–14, 1963. Discussion centered on the revi-
sion of the German copyright legislation and the future Revision of the
Berne Convention. 5e Série 1959–1965 Bulletin No. 6, pp. 3–178. (F)
(R).
revision of the Berne Convention in Stockholm 1967 (51st ALAI Con-
for the revision of the Berne Convention 1971. 5e Série 1965–1970
Bulletin No. 8, pp. 9–146. (F) (R).


1974 Amsterdam SD: April 1974 “The Contract to Publish” (F).

1975 WestBerlin SD: October 1–2, 1975 “Freedom of Contracts in the Copyright Field” (97 pp.) (F).


1977 Antwerp SD: September 8–9, 1977 “The lending and hiring of copies of protected works, mainly through public libraries”. (567 pp.) (F) (R) Nearly all Antwerp reports can be found translated into English under the title “Public Lending Right. Reports of the ALAI-symposium and additional material”, ed. H. Cohen Jehoram, 1983.

1978 Paris Centenary Congress, May 29 – June 3, 1978 The author’s place in society and legal relations between authors and those responsible for distributing their works. The author, his work and his copyright society. The right of reproduction and the evolution of technology. The right of public performance in the view of technological advancement. International copyright conventions. The international relations in the field of neighbouring rights. (197 pp.) (R).


property laws. The international protection of designs and models. (199 pp.) (F) (R).


1987 Sorrento SD: June 1–2 1987: Direct broadcasting by satellite (DBS): the implications for copyright. Protection of cinematographic films. The introduction of advertisements during the television broadcasting of cinematographic works and the protection of authors’ moral rights. The sequence of exploitation of cinematographic films from the viewpoint of copyright and comparative law. Theatrical exhibition of cinematographic films. (147 pp.) (R).


1995 Paris C: September 18–21, 1995 “Audiovisual works and Literary and Artistic Property”: The notion of audiovisual work. Technical and financial contexts of the creation and dissemination of audiovisual


1997 Montebello C: September 14–18 1997 “Protection of Authors and Performers by Contract”. Authors’ and performers’ protection through individual contracts. Collective management of authors’ and performers’ rights. Authors’ and performers’ protection through collective agreements concluded with associations or guilds of authors and performers. (1198 pp.).


2002 Neuchâtel SD: September 16–17, 2002 “ALAI and the Copyright-Internet World”: International private law in relation to copyright. Mecanism of dispute settlement in the frame of the TRIPS and the alternative mediation and arbitration bodies set at disposal by WIPO and questions of international and supranational jurisdiction to be reflected. (399 pp.).


2009 London C: June 14–16, 2009 “From 1720 to Cyberspace: Celebrating 300 years of copyright and looking into its future” (522 pp. + CD).

2010 Vienna C: September 9–11, 2010 “The Duration of Copyright and Related Rights”: Term of protection in copyright: from 10 to 70 years and beyond. The proper term of protection of authors’ rights. Related rights’ term of protection. Further approximation or harmonization of the duration of authors’ rights on the regional and/or on the international level. Transitional law and prolongation of protection. Domaine public payant and the social cultural foundation of authors’ rights. Alternatives. (790 pp. + CD).


2015 Bonn C: June 18–20, 2015 “Remuneration for the Use of Works”: Legal models to assure remuneration for use. Business models today
and options for the future. (to be published by the German Group of ALAI).

Envoi

Keep the old watch-dog ALAI digging for bones and biting!