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This is an informal English translation of the copyright amendment bill that was passed out of committee the week of March 26.

Background laws and documents:

- The [official spanish version](#)
- [Columbia Government's introductory webpage](#)
- [Colombian Copyright Laws](#) (English) [WIPO database with links to the 1982 law, amendments from 1993, 2001, and 2010; IP-related laws including Law no. 1032 of 2006].
- [Decision 351 of the the Andean Community](#)
- **Text of Columbia-US Free Trade Agreement**
 - [Intellectual Property Rights Chapter](#)
 - [ISP Side Letter](#)
 - [Retransmission Side Letter](#)
 - [Side Letter Concerning Patents and Certain Regulated Products](#)

ARTICLE 1 *Purpose.* Implementing commitments acquired by the Republic of Colombia thereunder the Trade Promotion Agreement with the United States of America, its attachments and understandings, signed in Washington on November 22nd 2006 and the Amending Protocol to the Trade Promotion Agreement with the United States of America, signed in Washington, District of Columbia, on June 28 2007, and the attached letter dated of even date, approved by the Congress of the Republic of Colombia by Law 1143 of July 4, 2007 and Law 1166 of November 21, 2007, respectively.

ARTICLE 2 Article 61 of the Law 44 of 1993 amending article 8 of 23 of 1982 will be as follows:

“Article **61** For the purposes of this law, is the meaning of:

Author . The Individual who makes the intellectual creation.

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Interpreter artist or performer, the actor, singer, musician, dancer or any other individual who plays a role, sings, recites, declaims, interprets or performs in some way, a literary or artistic works or folk expressions.

Communication to the public of a phonogram's interpretation or performance, the broadcasting to the public, by any means except for radio broadcasting, of sounds of an interpretation or performance or the sounds or representations of sounds fixed into a phonogram. For the purposes of the rights granted to phonogram interpreters or performers and to phonogram producers, the

“communication to the public” also includes making the sounds or representing the sounds fixed into a phonogram audible for the public.

Copy or specimen, the physical fixation of the work, as a result of an act of reproduction.

Beneficiary, Individual or legal entity to whom, by any title, the rights granted by this law are transmitted.

Public Distribution, Making the original or faithful copies of the work available to the public, by selling, leasing, loaning or any other.

Dissemination, Making the work accessible to the public by any means or procedure.

Broadcasting, Remote dissemination of sounds or images and sounds for its reception by the public.

Fixation, Incorporation of signs, sounds or images, or its representation, from which they may be perceived, reproduced or communicated through a device.

Phonogram, the fixation of sounds of a performance or of other sounds that is not in the shape of a fixation included in a film or in an audiovisual work.

Ephemeral Recording, Sound or audiovisual fixation of a representation or performance or radio broadcasting, carried out by a brief period by a radio broadcasting body, using its own means and used in its own broadcasting activities.

Rights management information, Information which identifies the work, interpretation, performance or phonogram; the author of the work, the performer artists of the interpretation or performance, or the producer of the phonogram; or the owner of any right over the work, interpretation, performance or phonogram; or information regarding the terms and conditions of usage of the works, interpretations or performances or phonograms; or any number or code representing such information, whenever any of these elements are present in a copy of the works, interpretation or performance of a phonogram or being included along with the communication or the availability to the public of a work, interpretation or performance or phonogram.

Profit, Exploitation or gain obtained from something

Effective technological measure, any technology, device or component which, in its normal operation, controls the access to a protected work, interpretation or performance or phonogram, or which protects any copyright or any other right related to the author.

Work. Any original intellectual creation, of artistic, scientific or literary nature, susceptible of being disclosed or reproduced in some way.

Anonymous work. Work which does not include the name of the author because of the author's own will or because he or she is unknown.

Audiovisual work. Any creation expressed through a series of associated images, that may or may not have incorporated sound, whose essential purpose is be displayed using a projector or any other mean of image and sound communication, regardless of the characteristics of the material containing the images.

Collective work. Work produced by a group of authors, out of the initiative and under the guidance of a natural or legal person who coordinates, broadcasts and publishes the work under its name.

Derivative work. Work based on the adaptation, translation or any other transformation of an original work, as long as it is of independent creation.

Work in collaboration. Work produced jointly by two or more natural persons whose contribution may not be separated.

Individual work. Work produced by one natural person.

Unpublished work. Work that has not yet been released to the public.

Original work is a work that is created for the first time.

Posthumous work. Work that has not been published until after the death of its author.

Pseudonymous work. Work whose author hides behind a pseudonym that does not identify the author.

Broadcasting body. Radio or television broadcasting enterprise that broadcasts to the public.

Producer. Natural or legal person who initiates, coordinates and is responsible for the production of the work, for instance the audiovisual work or the computer program.

Phonogram producer. Natural or legal person who initiates, coordinates and is responsible for the first fixation of the sounds of an interpretation or performance or other sounds or representations of sounds.

Publication. Production of samples made available to the public with consent from the right-holder, as long as the availability of such samples allows meeting

the reasonable needs of the public, considering the nature of the work.

Publication of an interpretation or performance of a phonogram. Offering copies of the interpretation or performance of the phonogram to the public with the consent from the right-holder and as long as such copies are in a reasonable amount.

Radio broadcasting. Wireless, or satellite broadcasting to the public of sounds, or sounds and images, or their representation; includes wireless broadcasting of coded signals, where the means of decoding is supplied to the public by the broadcasting body or with its consent; “radio broadcasting” does not include computer network broadcasting or any other broadcasting where the place as well as the time of reception may not be individually selected by members of the public.

Retransmission. Broadcast of a signal or program received from another source, carried out by wireless diffusion of signs, sounds or images or by means of cable, wire, fiber optics or any other analogous procedure.

Ownership. What is bestowed upon the owner of the rights hereby acknowledged”.

ARTICLE 3 Law 23 from 1982 will include a new article 10a which will be as follows:

“Article 10A. In civil, administrative and criminal procedures related to copyright and related rights it shall be presumed, in absence of proof against it, that the natural or legal person whose name is stated in the usual manner, is the right holder of the work, interpretation or performance or phonogram. It is also presumed that, in the absence of proof against it, the copyright or related right prevails in regards to the work, interpretation or performance or phonograms.

ARTICLE 4, Article 11th of law 23 from 1982 will be as follows:

“Article 11. According to articles 61 and 71 of the Colombian Constitution, literary and artistic property will be protected as transferable property for the life of the author plus eighty years, according to the provisions of the law.

This law protects works, interpretations, performances, phonograms and broadcasts of both Colombian and foreign broadcasting organisms that are domiciled in Colombia or released for the first time in the country.

Foreigners who are not domiciled in Colombia shall enjoy the protection of this law as provided by international treaties Colombia adheres to or whenever national laws from another country require reciprocity for protecting the rights of Colombian authors, interpreters, performers, producers and broadcasting bodies

in said country.

PARAGRAPH. Whenever the protection of a phonograph or a interpretation or performance fixated in a phonogram is granted pursuant to the criteria of first publication or fixation, such interpretation, performance or phonogram will be considered published for the first time in Colombia, when such publication is made within 30 days of the initial publication in another country.

ARTICLE 5. Article 12th of Law 23 from 1982 will be as follows: “Article 12. The author or, if applicable, his successors, have the exclusive right to authorize or prohibit the following actions over literary and artistic works:

a) Any form of reproduction of the work, permanent or temporary, by any means of procedure including temporary electronic storage.

b) Communication of the work to the public by any means or procedure, either wire or wireless, including making the work available to the public, so that members of the public can have access to the work at the time and place of their choice.

c) Public distribution of the original or copies of the works through sale or any other form of property transfer.

d) Importation, by any means, of copies made without the authorization of the rights-holder, including electronic broadcasting, without prejudice of provisions established in 1993 Andean Decision Number 351.

d) Commercial rental to the public of the works’ original or copies.

Translation, adaptation, arrangement or any other transformation of the work”

ARTICLE 6 Article 27th of Law 23 from 1982 will be as follows:

“Article 27. In all instances in which a literary or artistic work is owned by a legal person, the term of protection will be 70 years starting at the end of the calendar year of the work’s first authorized publication.

If within 50 years of the creation of the work there has not been an authorized publication, the term of protection will be 70 years starting at the end of the calendar year of the creation of the work”.

ARTICLE 7. Article 165th of Law 23 from 1982 will be as follows:

“Article 165. The protection offered by the standards of this chapter will not have any effect whatsoever on copyright protection over literary, scientific and artistic works as established by this law. Therefore, none of the provisions included in

this chapter may be interpreted to the detriment of such protection.

In order not to set any hierarchy between copyright, on the one hand, and the rights of artists, interpreters or performers and producers of phonograms, on the other, in such events where permission is necessary from the author of a work included in a phonogram as well as from the interpreter or performer or producer who owns the rights of a phonogram, the requirement of the permission from the author persists since permission from the artist, interpreter or performer or producer of phonograms is also be required.

Similarly, in such cases where permission is needed from both the author of a work contained in a phonogram and the interpreter or performer or the producer owning the rights of the phonograms, the requirement for the authorization of the performing or interpreting artist of produces of the phonogram does not cease to exist because permission of the author is also required.

ARTICLE 8. Article 166th of Law 23 from 1982 will be as follows:

“Article 166. Interpreting or performing artists, or their representatives, have the following exclusive rights to authorize or ban the following actions over their interpretations or performances:

- a) The broadcast and communication to the public of non-fixed interpretations or performances, except when the interpretation or performance constitutes in itself a broadcasted performance or interpretation;
- b) The fixation of non-fixed performances or interpretations;
- c) The reproduction of their interpretations or performances fixed by any mean or form, permanently or temporarily, by any procedure, including temporary electronic storage
- d) The public distribution of the original and copies of their interpretations or performances fixed in a phonogram, through sale or any other form of property transfer.
- e) The commercial rental to the public of the original or copies of their interpretations or performances fixed in a phonograms, even after their distribution carried out by the interpreting or performing artist or with the artist’s permission.
- f) The making of the interpretations or performances fixed in phonograms available to the public, so that the members of the public may have access to it at the place and time of their choice.”

ARTICLE 9 Article 172nd of Law 23 from 1982 will be as follows “Article 172. The phonogram producer has the exclusive right to authorize or prohibit:

- a) The reproduction of the phonogram by any means, temporary or permanent,

by any procedure including temporary electronic storage.

b) The public distribution of the original and copies of the producer's phonograms, through sale or any other form of property transfer.

c) The commercial rental to the public of the original or copies of the producer's phonograms even after their distribution has been carried out by themselves or with their authorization.

d) The making the phonograms available to the public, so that the members of the public may have access to the phonograms at the place and time of their choice."

ARTICLE 10. Article 2 of Law 44 from 1993 which modifies article 29th of Law 23 from 1982 will be as follows:

"Article 2. The terms of protection of all rights guaranteed to interpreting or performing artists, phonogram producers and radio broadcasting bodies will have the following duration:

Whenever the owner is a natural person, the protection will extend for the life of the owner plus eighty years after his/her death.

Whenever the owner is a legal person, the protection term will extend for 70 years from:

The end of the calendar year of the first authorized publication of the interpretation, performance or phonogram. If there is no authorized publication within 50 years of the interpretation, performance, or phonogram, the term will extend for 70 years from the end of the calendar year in which the interpretation, performance, or phonogram took place;

The end of the calendar year of the first radio broadcast."

ARTICLE 11. Withdrawal of the Reproduction License: The reproduction license before the National Copyright Authority referred to in articles 58 to 71 of Law 23 from 1982 is hereby eliminated.

ARTICLE 12. Limitations and exceptions defined in relation to copyright and related rights will be limited to special cases that do not impair the normal exploitation of the works or cause unjustified prejudice to the legitimate interests of the right holder(s).

ARTICLE 13 Regardless of the possibility that the Government has of setting up limitations and exceptions to the exclusive rights foreseen in the national copyright and related rights legislation, broadcasting through the Internet by land, cable or satellite of television signals is not allowed without permission from the

owner or owners of the copyright of the contents of the signal and, if relevant, the signal itself.

ARTICLE 14 Regardless of a concurring infringement on copyright or related rights, anyone engaging in any of the following behaviors will incur in civil liability and shall pay damages:

a) Circumventing, without authorization, all technologically effective measures imposed to control access and unauthorized uses of works, artistic interpretations or performances, phonograms or broadcast transmissions.

b) Manufacturing, importing, distributing, offering to the public, providing or in any way marketing devices, products or components or offering to the public or providing services which regarding any effective technological measure

Are promoted, advertised or marketed with the intent to circumvent such measure; or

Have a limited purpose or meaningful commercial use other than circumventing such measure; or

Are designed, produced, carried out mainly to allow or facilitate the circumvention of such measure.

c) Suppressing or tampering with any information regarding management of rights.

d) Distributing or importing with the intent to distribute, information concerning rights management knowing that such information has been suppressed or tampered with without permission.

e) Distributing, importing with the intent to distribute, broadcasting, communicating or making available to the public copies of the works, interpretations or phonograms, knowing that the information regarding management of rights has been suppressed or tampered with without permission.”

PARAGRAPH. Except for a court order, no administrative authority may demand that the design, or the selection of parts and components for a consumer electronic product be in accordance with a specific technological, telecommunications or computer measure, except when such product in any way violates the provisions of this article.

ARTICLE 15. The following are exceptions to the liability established in subsections a and b of the previous article and such liability will be applied in accordance to the paragraphs of this article.

- a) Non-infringing activities of reverse engineering a legally obtained copy of a computer program, which are conducted in good faith regarding the particular elements of such computer program which have not been made available to the person involved in such activities, and with the sole purpose of achieving the interoperability with a computer program created independently with other programs;
- b) Good faith non-infringing activities by a properly qualified researcher who has legally obtained a copy, non fixed interpretation or performance or sample of a work, interpretation, performance or phonogram, and who has made a good faith effort to obtain authorization to carry out such activities, to the necessary extent, and with the sole purpose of identifying and analyzing flaws and vulnerabilities of the technologies to encode and decode the information;
- c) The inclusion of a component or a part with the sole purpose of preventing access to minors to inappropriate on line content in a technology, product, service or device which in itself is different to the ones mentioned in subsection b article 252 bis.
- d) Good faith non-infringing activities authorized by the owner of a computer, a computer system or a computer network with the sole purpose of testing, researching or correcting the security of such computer, computer system or computer network;
- e) Access by libraries, archives or educational, non profit institutions, to a work, interpretation or performance or phonogram to which they would not otherwise have access, with the sole purpose of making decisions regarding purchases.
- f) Non-infringing activities with the sole purpose of identifying and disabling the capacity of undisclosed collection and dissemination of personal identification data on the online activities of a natural person in a way that does not have any other effect on the capacity of any person of obtaining access to a work.
- g) Non-infringing uses of a work, interpretation or performance or phonogram in a specific category of works determined by the law and taking into account the existence of substantial evidence of a real or potential adverse effect on those non-infringing uses. The National Government will periodically review such effect at intervals no longer than 4 years, to determine the need and convenience of introducing a bill to the Congress of the Republic that establishes the non-infringing uses that are the object of the exception in this subsection.
- h) The legally authorized activity of research, protection, information security or intelligence carried out by government employees, agents or contractors. For the purpose of this subsection, the term, “ information security” means activities carried out to identify and address the vulnerability of a government computer,

computing system or computer network.

FIRST PARAGRAPH. All exceptions to the behaviors described in this article apply to effective technological measures that control access to a work, interpretation, performance or phonogram.

SECOND PARAGRAPH. Only exceptions described in subsections a, b, c, d of this article will apply to the activities related in article 252bis subsection b, whenever they refer to technological measures controlling the access to a work, interpretation, performance or phonogram.

THIRD PARAGRAPH. Only the exception described in subsection a of this article will apply to the activities related in article 252bis subsection b, whenever they refer to technological measures controlling non-authorized uses of a work, interpretation, performance or phonogram.

ARTICULE 16. Article 2 of Law 1032 from 2006 which amended article 271 of Law 599 from 2000 will be as follows:

“Article 2. In regards to the violation of proprietary copyrights and related rights. Penalties of Four (4) to eight (8) years in prison and a fine of twenty six point sixty six (26.66) to one thousand (1,000) legal minimum monthly wages will be imposed on who, with the exceptions foreseen by the law, without the previous and express authorization of the copyright owner:

By any means or procedure reproduces literary, scientific, artistic or film, phonogram, videogram, software or computer program works, or, who transports, stores, preserves, distributes, imports, exports, sells, offers, acquires for the purpose of selling or distributing or supplies any title of such reproductions.

Represents, executes or publicly shows theater plays, musicals, phonograms, videograms, films or any other literary or artistic work.

Leases or in any way commercializes phonograms, videograms, computer programs, software or films.

Fixes, plays or commercializes public performances of theater or music plays.

Orders, carries out or uses, though any means or procedure, the communication, fixation, execution, exhibition, commercialization, dissemination or distribution and representation of a work protected in this title.

Broadcasts, fixates, plays or, by any acoustic or audiovisual means, divulges the broadcasts of radio broadcasting enterprises.

Receives, disseminates or distributes by any means the broadcasts of paid

television.”

ARTICLE 17 Article 3 of [Law 1032 from 2006](#) which modified article 272nd of Law 599 from 2000 will be as follows:

“Article 3 In regards to the violation of copyrights and related rights protection mechanisms and other fraudulent acts, a penalty of four (4) to eight (8) years in prison and a fine of twenty six point sixty six (26.66) to one thousand (1,000) legal minimum monthly wages will be imposed to whom in order to achieve commercial advantage or private financial profit, acting without the authorization from the copyright and related rights owners and except for the exceptions foreseen by the Law:

1. Avoids the effective technological measures imposed to control the access or unauthorized usage of works, artistic interpretations or performances, phonograms or radiobroadcasts.
2. Manufactures, imports, distributes, offers to the public, provides or in any other way trades devices, products or components or offers to the public or provides services which, concerning any effective technological measure:

Are promoted, advertised or traded with the intention of avoiding such measure; or having a limited purpose or a meaningful trading usage other than avoiding such measure; or are designed, produced, carried out in order to allow or ease the avoidance of such measure.

1. Suppresses or tampers with any information regarding the management of rights.
2. Distributes or imports management of rights for the distribution of information knowing that such information has been suppressed or tampered without permission.
5. Distributes or imports for its distribution, transmits, communicates or makes available to the public copies of the works, interpretations or performances or phonograms knowing that the information concerning management of rights has been suppressed or tampered with without authorization.
6. Manufactures, assembles, modifies, imports, exports, sells, leases or distributes by any other means a tangible or intangible device or system, knowing or having reasons to believe that the main function of the device or system is to assist in the decoding of a coded satellite signal carrying coded programs without the authorization from the legal distributor of such signal.
7. Receives or later on distributes a satellite signal carrying a program which originated as a coded satellite signal knowing that it has been decoded without the authorization from the legal distributor of such signal.
8. Shows statements or information destined to pay directly or indirectly, collect,

liquidate or distribute financial copyrights or related rights, altering or misrepresenting by any means or procedure, the necessary information for these purposes.

PARAGRAPH Subsections 1 to 5 of this article do not apply when referring to a non-profit library, file or educational institution or non-commercial broadcasting government office.

ARTICLE 18 The provisions of the previous articles will apply to all the works, interpretations, performances, phonograms and broadcasts from broadcasting agencies that, at the time of going into effect, this law have not been made available to the public.

ARTICLE 19 Notwithstanding the provisions in article 33 of the Constitution, the administrative authorities in the exercise of the jurisdictional obligations and the competent judicial authorities to solve violation processes regarding intellectual property will have the power to order the violator to provide any information in his possession regarding any person involved in the violation, as well as the means or instruments of production or channels of distribution used for it.

ARTICLE 20 In processes regarding violations to the copyrights, related rights and brands, the judge will have the power to have all materials and tools used in the manufacturing or creation of such pirate or forged merchandises destroyed, at the expense of the defeated party and without any compensation, or under exceptional circumstances, without any compensation, they are withdrawn from commercial channels.

For merchandises considered as pirate or forged, the judge shall rule them to be destroyed, at the expense of whoever is convicted in the process, unless the owner of the right agrees to dispose of them differently. In some cases the merchandises from forged brands may be donated with charitable purposes to be used outside the trading channels, when the elimination of the brand removes the violating characteristic and the merchandise cannot be related to the removed brand. In no case will the judges allow exporting forged or pirated merchandises or allow for such merchandise to be subjected to other customs procedures, except for exceptional circumstances. In regards to forged brand merchandises, the sole removal of the brand which was illegally attached will not be enough to allow the merchandises to be returned to the commercial channels.

ARTICLE 21 The paragraph of article 4 of Law 680 from 2001 which amended article 33rd of Law 182 from 1995 will be as follows:

PARAGRAPH on Saturdays, Sundays and Holidays the national production percentage will be of at least 30% in the following schedules:

- From 19:00 hours to 22:30 hours (triple A). – From 22:30 hours to 24:00 hours.-

From 10:00 hours to 19:00 hours.

ARTICLE 22 *Validity* This law becomes valid as of its date of publication, all contrary provisions are annulled.