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LAMPIRAN

Lampiran 1: Directive 96/9/EC on the legal protection database

DIRECTIVE 96/9/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 11 March 1996

on the legal protection of databases

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community, and in particular Article 57 (2), 66 and 100a thereof,

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the Economic and Social Committee (2),

Acting in accordance with the procedure laid down in Article 189b of the Treaty (3),

(1) Whereas databases are at present not sufficiently protected in all Member States by existing legislation; whereas such protection, where it exists, has different attributes;

(2) Whereas such differences in the legal protection of databases offered by the legislation of the Member States have direct negative effects on the functioning of the internal market as regards databases and in particular on the freedom of natural and legal persons to provide on-line database goods and services on the basis of harmonized legal arrangements throughout the Community; whereas such differences could well become more pronounced as Member States introduce new legislation in this field, which is now taking on an increasingly international dimension;

(3) Whereas existing differences distorting the functioning of the internal market need to be removed and new ones prevented from arising, while differences not adversely affecting the functioning of the internal market or the development of an information market within the Community need not be removed or prevented from arising;

(4) Whereas copyright protection for databases exists in varying forms in the Member States according to legislation or case-law, and whereas, if differences in legislation in the scope and conditions of protection remain between the Member States, such unharmonized intellectual property rights can have the effect of preventing the free movement of goods or services within the Community;

(5) Whereas copyright remains an appropriate form of exclusive right for authors who have created databases;

(6) Whereas, nevertheless, in the absence of a harmonized system of unfair-competition legislation or of case-law, other measures are required in addition to prevent the unauthorized extraction and/or re-utilization of the contents of a database;

(7) Whereas the making of databases requires the investment of considerable human, technical and financial resources while such databases can be copied or accessed at a fraction of the cost needed to design them independently;

(8) Whereas the unauthorized extraction and/or re-utilization of the contents of a database constitute acts which can have serious economic and technical consequences;

(9) Whereas databases are a vital tool in the development of an information market within the Community; whereas this tool will also be of use in many other fields;

(10) Whereas the exponential growth, in the Community and worldwide, in the amount of information generated and processed annually in all sectors of commerce and industry calls for investment in all the Member States in advanced information processing systems;

(11) Whereas there is at present a very great imbalance in the level of investment in the database sector both as between the Member States and between the Community and the world's largest database-producing third countries;

(12) Whereas such an investment in modern information storage and processing systems will not take place within the Community unless a stable and uniform legal protection regime is introduced for the protection of the rights of makers of databases;

(1) OJ No C 156, 23. 6. 1992, p. 4 and OJ No C 308, 15. 11. 1993, p. 1.
(2) OJ No C 19, 25. 1. 1993, p. 3.
(3) Opinion of the European Parliament of 23 June 1993 (OJ No 194, 19. 7. 1993, p. 144), Common Position of the Council 10 July 1995 (OJ No C 288, 30. 10. 1995, p. 14), Decision the European Parliament of 14 December 1995 (OJ No C , 22 1. 1996) and Council Decision of 26 February 1996.

Lampiran 2: Directive 2009/24/EC on the legal protection of computer program

DIRECTIVES

DIRECTIVE 2009/24/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL

of 23 April 2009

on the legal protection of computer programs

(Codified version)

(Text with EEA relevance)

THE EUROPEAN PARLIAMENT AND THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty establishing the European Community and in particular Article 95 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Economic and Social Committee [1],

Acting in accordance with the procedure laid down in Article 251 of the Treaty [2],

Whereas:

(1) The content of Council Directive 91/250/EEC of 14 May 1991 on the legal protection of computer programs [3] has been amended [4]. In the interests of clarity and rationality the said Directive should be codified.

(2) The development of computer programs requires the investment of considerable human, technical and financial resources while computer programs can be copied at a fraction of the cost needed to develop them independently.

(3) Computer programs are playing an increasingly important role in a broad range of industries and computer program technology can accordingly be considered as being of fundamental importance for the Community's industrial development.

(4) Certain differences in the legal protection of computer programs offered by the laws of the Member States have direct and negative effects on the functioning of the internal market as regards computer programs.

(5) Existing differences having such effects need to be removed and new ones prevented from arising, while differences not adversely affecting the functioning of the internal market to a substantial degree need not be removed or prevented from arising.

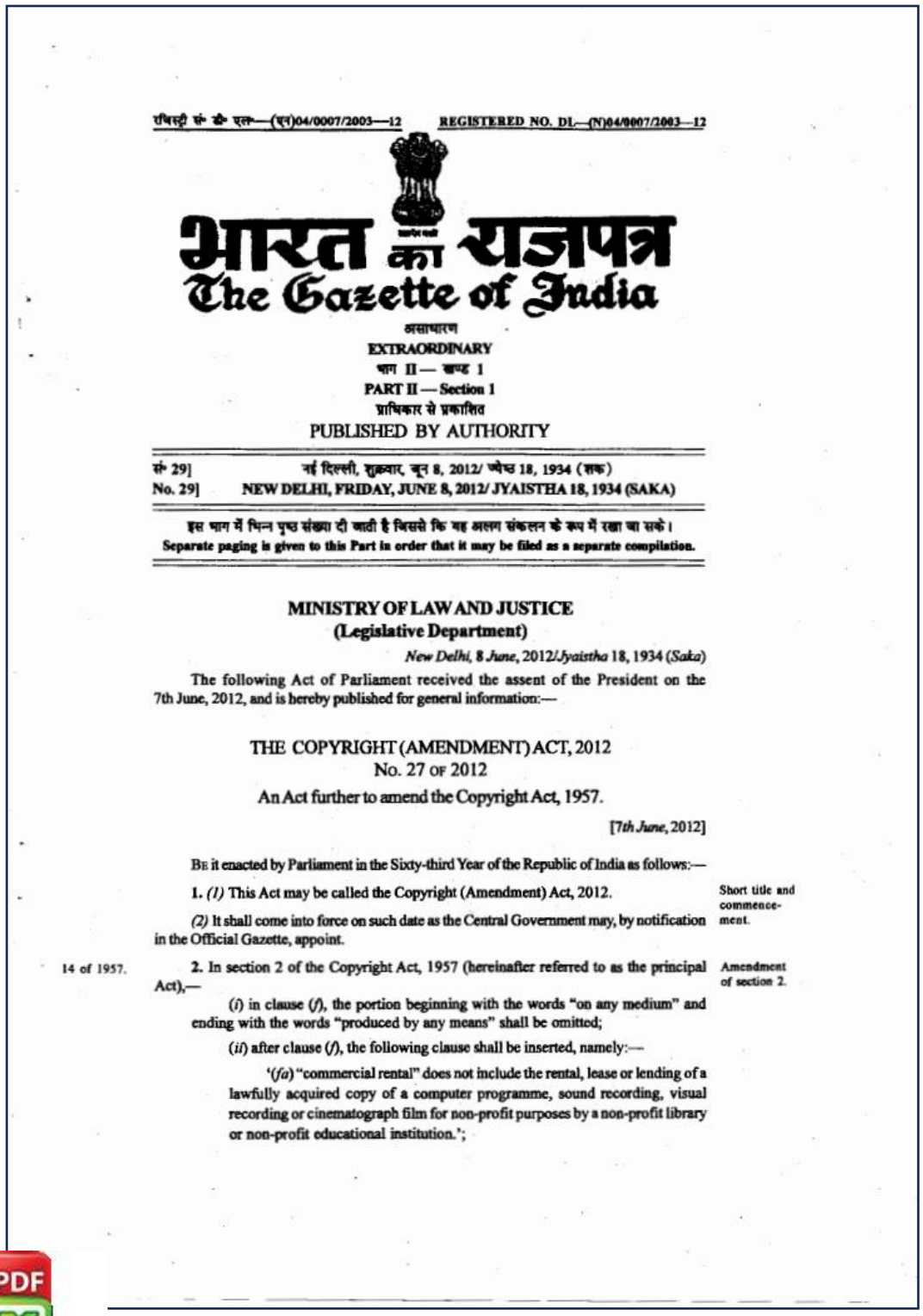
(6) The Community's legal framework on the protection of computer programs can accordingly in the first instance be limited to establishing that Member States should accord protection to computer programs under copyright law as literary works and, further, to establishing who and what should be protected, the exclusive rights on which protected persons should be able to rely in order to authorise or prohibit certain acts and for how long the protection should apply.

(7) For the purpose of this Directive, the term 'computer program' shall include programs in any form, including those which are incorporated into hardware. This term also includes preparatory design work leading to the development of a computer program provided that the nature of the preparatory work is such that a computer program can result from it at a later stage.

(8) In respect of the criteria to be applied in determining whether or not a computer program is an original work, no tests as to the qualitative or aesthetic merits of the program should be applied.

[1] OJ C 204, 9.8.2008, p. 24.
[2] Opinion of the European Parliament of 17 June 2008 (not yet published in the Official Journal) and Council Decision of [illegible] March 2009.
[3] 122, 17.5.1991, p. 42.
[4] Annex I, Part A.

Lampiran 3: Copyright Act (Amandment) 2012 India



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भारत का राजपत्र
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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF LAW AND JUSTICE
(Legislative Department)

New Delhi, 8 *June*, 2012/*Jyaistha* 18, 1934 (*Saka*)

The following Act of Parliament received the assent of the President on the 7th June, 2012, and is hereby published for general information:—

THE COPYRIGHT (AMENDMENT) ACT, 2012
No. 27 OF 2012

An Act further to amend the Copyright Act, 1957.

[7*th June*, 2012]

BE it enacted by Parliament in the Sixty-third Year of the Republic of India as follows:—

Short title and commencement.

1. *(1)* This Act may be called the Copyright (Amendment) Act, 2012.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 2.

14 of 1957.

2. In section 2 of the Copyright Act, 1957 (hereinafter referred to as the principal Act),—

(*i*) in clause (*f*), the portion beginning with the words "on any medium" and ending with the words "produced by any means" shall be omitted;

(*ii*) after clause (*f*), the following clause shall be inserted, namely:—

'(*fa*) "commercial rental" does not include the rental, lease or lending of a lawfully acquired copy of a computer programme, sound recording, visual recording or cinematograph film for non-profit purposes by a non-profit library or non-profit educational institution.';