

N° 541.

**ETATS-UNIS D'AMÉRIQUE
ET PAYS-BAS**

Echange de notes relatif à la protection des droits d'auteur concernant les œuvres musicales. La Haye, les 2 octobre 1922 et 3 avril 1923.

**UNITED STATES OF AMERICA
AND THE NETHERLANDS**

Exchange of Notes regarding copyright on musical works. The Hague, October 2, 1922 and April 3, 1923.

¹ TRADUCTION. — TRANSLATION.

No. 541. — EXCHANGE OF NOTES BETWEEN THE GOVERNMENTS OF THE UNITED STATES OF AMERICA AND THE NETHERLANDS REGARDING COPYRIGHT ON MUSICAL WORKS. THE HAGUE, OCTOBER 2, 1922, AND APRIL 3, 1923.

Official English and French texts communicated by the Netherlands Chargé d'Affaires p. i. at Berne. The registration of this exchange of Notes took place December 28, 1923.

MINISTRY OF FOREIGN AFFAIRS
LEGAL DEPARTMENT
No. 17121
ANNEXES.

THE HAGUE, October 2, 1922.

SIR :

In your letter of August 21 last, No. 47, you were good enough to inform me that the United States Government is prepared to apply the first Section of the United States Law of March 4, 1909, to Dutch subjects, on condition that the Royal Government gives a formal assurance that American composers of musical works will enjoy authors' rights in the Netherlands in respect of all mechanical reproductions of their works.

After consultation with the Minister of Justice, I have the honour to forward herewith a Declaration embodying the assurance referred to.

I should be glad if you would inform me of the measures taken by the United States Government in regard to Dutch subjects.

I have the honour to be, etc.

The Minister :
van KARNEBEEK.

Mr. Louis SUSSDORFF, Jr.,
Chargé d'Affaires *a. i.*
of the United States of America.

DECLARATION.

The Minister for Foreign Affairs of Her Majesty the Queen of the Netherlands :

In consideration of Articles 1, 10 and 14 of the Copyright Law, 1912 (*Official Gazette*, No. 308), as amended by the Laws of October 16, 1914 (*Official Gazette*, No. 489), and October 29, 1915 (*Official Gazette*, No. 446), which provide :

(1) that authors' rights shall be the exclusive right of the author of a literary, scientific or artistic work, or his legal representatives, to publish and reproduce such work, subject to the restrictions by law provided ;

¹ Traduit par le Secrétariat de la Société des Nations.

¹ Translated by the Secretariat of the League of Nations.

2. que l'expression « œuvre littéraire, scientifique ou artistique » comprend aussi les compositions musicales avec ou sans paroles et les œuvres dramatico-musicales ;

3. que la dénomination : reproduction d'une œuvre qui s'adresse à l'ouïe, comprend aussi la fabrication de rouleaux, de disques et d'autres instruments destinés à reproduire la totalité ou une partie de cette œuvre par la voie mécanique ;

Considérant que la loi ne distingue pas entre des œuvres, des rouleaux, des disques, etc. faits dans le Royaume d'un côté et œuvres, rouleaux, disques, etc. faits en dehors du Royaume de l'autre côté, ni entre auteurs qui sont néerlandais et auteurs étrangers ;

à la suite d'une demande du Gouvernement américain, exprimée par une lettre de Monsieur le Chargé d'Affaires p. i. des Etats-Unis d'Amérique à la Haye en date du 21 août 1922, N^o 47 ;

déclare par la présente que les citoyens des Etats-Unis d'Amérique peuvent faire valoir aux Pays-Bas des droits d'auteurs par rapport à leurs œuvres musicales faites ou publiées pour la première fois depuis la date de la présente, lesquels droits comprennent la faculté exclusive de fabriquer des rouleaux, des disques et d'autres objets destinés à la reproduction mécanique d'une œuvre en tout ou en partie, ainsi que la faculté exclusive de donner des représentations ou des exécutions publiques au moyen de ces instruments, et ce indépendamment du fait que ces instruments ont été fabriqués soit aux Pays-Bas, soit aux Etats-Unis d'Amérique ou ailleurs.

LA HAYE, le 2 octobre 1922.

Ministre des Affaires étrangères.

No. 120.

THE HAGUE, NETHERLANDS, *April 3, 1923.*

EXCELLENCY,

Referring to my Notes Nos. 47 and 72 of August 21 and November 29, 1922, respectively, and to the Foreign Office's replies of October 2, 1922, and February 6, 1923 (Juridical Divisions, Nos. 17121 and 1910 respectively), I have the honour to enclose herewith, for the information of the Netherlands Government, five copies of a Proclamation issued by the President of the United States on February 26, 1923, giving to the subjects of the Netherlands all the benefits of the Act approved March 4, 1909, including copyright controlling the parts of instruments serving to reproduce mechanically a musical work, as provided in Section 1 (*e*) of that Act, in the case of all works by the Netherlands authors which have been published on or after October 2, 1922, and have obtained copyright in accordance with the laws of the United States.

I avail myself of this opportunity to renew to Your Excellency the assurance of my highest consideration.

(Signed) LOUIS SUSSDORFF, JR.
Chargé d'Affaires a.i.

His Excellency

Jhr. Mr. Dr. H. A. van KARNEBEEK,
Minister for Foreign Affairs,
etc., etc., etc.

COPYRIGHT : NETHERLANDS : BY THE PRESIDENT OF THE UNITED STATES OF AMERICA.
A PROCLAMATION.

Whereas, it is provided by the Act of Congress approved March 4, 1909 (35 Stat. L. 1075), entitled " An Act to Amend and Consolidate the Acts respecting Copyright ", that the provisions of Section 1 (*e*) of said Act, " so far as they secure copyright controlling the parts of instruments serving to reproduce mechanically the musical work, shall include only compositions published

(2) that the expression " literary, scientific or artistic work " includes also musical compositions, with or without words, and musical dramatic works ;

(3) that the expression " reproduction of a work to be conveyed by sound waves " includes also the manufacture of rolls, discs and other instruments for the reproduction of the whole or part of the work by mechanical means :

Whereas the law does not distinguish between works, rolls, discs, etc., produced in the Netherlands and works, rolls, discs, etc., produced abroad, nor between Dutch and foreign composers :

In compliance with a request from the United States Government, contained in a letter from the Acting Chargé d'Affaires of the United States of America at The Hague, dated August 21, 1922, No. 47 ;

Hereby declares that citizens of the United States of America may claim copyright in the Netherlands with respect to their musical works made or published for the first time since the date of this Declaration, which copyright includes the exclusive right to manufacture rolls, discs and other objects for the mechanical reproduction of a work in whole or in part, as well as the exclusive right to give public representations or executions by means of these instruments, and this independently of the fact that these instruments have been made either in the Netherlands or in the United States of America or elsewhere.

THE HAGUE, *October 2, 1922.*

Minister for Foreign Affairs.

No. 120.

LA HAYE, PAYS-BAS, *le 3 avril 1923.*

MONSIEUR LE MINISTRE,

Comme suite à mes notes N^o 47 et 72 portant respectivement les dates du 21 août et du 29 novembre 1922 et aux réponses du Ministère des Affaires étrangères en date du 2 octobre 1922 et du 6 février 1923 (émanant du Service juridique et portant respectivement les N^{os} 17121 et 1910), j'ai l'honneur de vous remettre ci-joint, à titre de renseignement destiné au Gouvernement des Pays-Bas, cinq exemplaires d'une proclamation promulguée par le Président des Etats-Unis le 26 février 1923, et par laquelle il a été accordé aux sujets des Pays-Bas tous les avantages de la loi approuvée le 4 mars 1909, y compris les droits de reproduction visant les parties d'instruments servant à reproduire mécaniquement une œuvre musicale, tels qu'ils sont prévus au Titre I *e*) de la dite loi, pour toutes les œuvres d'auteurs néerlandais qui ont été publiées le 2 octobre 1922 ou postérieurement à cette date, et qui ont bénéficié du droit de reproduction, conformément à la législation des Etats-Unis.

Je saisis cette occasion, etc.

(Signé) LOUIS SUSSDORFF, JR.,
Chargé d'Affaires p.i.

Son Excellence

Monsieur le Jonkheer D^r H. A. van KARNEBEEK,
Ministre des Affaires étrangères,
etc. etc. etc...

DROITS DE REPRODUCTION. PAYS-BAS.

PROCLAMATION DU PRÉSIDENT DES ETATS-UNIS D'AMÉRIQUE.

Attendu qu'il est prévu par la loi du Congrès approuvée le 4 mars 1909 (35 Stat., L. 1075) intitulé « Loi portant amendement et codification des lois sur les droits de reproduction », que les dispositions du titre I *e*) de ladite loi « dans la mesure où elles garantissent les droits de reproduction auxquels sont assujetties les parties d'instruments servant à reproduire mécaniquement les

and copyrighted after this Act goes into effect, and shall not include the works of a foreign author or composer unless the foreign State or nation of which such author or composer is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States similar rights ” :

And, whereas, it is further provided that the copyright secured by the Act shall extend to the work of an author or proprietor who is a citizen or subject of a foreign State or nation, only upon certain conditions set forth in Section 8 of said Act, to wit :

- (a) When an alien author or proprietor shall be domiciled within the United States at the time of the first publication of his work ; or
- (b) When the foreign State or nation of which such author or proprietor is a citizen or subject grants, either by treaty, convention, agreement, or law, to citizens of the United States the benefit of copyright on substantially the same basis as to its own citizens, or copyright protection substantially equal to the protection secured to such foreign author under this Act or by treaty ; or when such foreign State or nation is a party to an international agreement which provides for reciprocity in the granting of copyright, by the terms of which agreement the United States may, at its pleasure, become a party thereto ;

And, whereas, it is also provided by said section that “ the existence of the reciprocal conditions aforesaid shall be determined by the President of the United States, by proclamation made from time to time, as the purposes of this Act may require ” ;

And, whereas, the President of the United States, in a Proclamation dated April 9, 1910 (36 Stat. L. 2685), proclaimed that subjects of the Netherlands since July 1, 1909, have been entitled to all the benefits of the Copyright Act approved March 4, 1909, other than the benefits under Section 1 (e) thereof ;

And, whereas, the Government of the Netherlands declared on October 2, 1922, that under the laws in force in that country “ citizens of the United States may claim copyright in the Netherlands and Possessions with respect to their musical works made or published for the first time since the date of this declaration, which copyright includes the exclusive right to manufacture rolls, discs, and other objects for the mechanical reproduction of a work in whole or in part, as well as the exclusive right to give public representations or executions by means of these instruments, and this independently of the fact that these instruments have been made either in the Netherlands and Possessions or in the United States of America or elsewhere ” ;

Now, therefore, I, Warren G. Harding, President of the United States of America, do declare and proclaim that one of the alternative conditions specified in Sections 1 (e) and 8 (b) of the Act of March 4, 1909, was fulfilled in respect to the subjects of the Netherlands on October 2, 1922, and that the subjects of the Netherlands from and after that date shall be entitled to all the benefits of the said Act, including copyright controlling the parts of instruments serving to reproduce mechanically a musical work, as provided in Section 1 (e) of the said Act, in the case of all works by the Netherlands authors which have been published on or after October 2, 1922, and have obtained copyright in accordance with the laws of the United States.

In testimony whereof, I have hereunto set my hand and caused the Seal of the United States to be affixed.

Done at the City of Washington this twenty-sixth day of February, in the year of our Lord, one thousand nine hundred and twenty-three, and of the Independence of the United States of America the one hundred and forty-seventh.

By the President :
Charles E. HUGHES,
Secretary of State.
(No. 1652.)

WARREN G. HARDING.