

FITTING UNITED STATES COPYRIGHT LAW INTO THE INTERNATIONAL SCHEME: FOREIGN AND DOMESTIC CHALLENGES TO RECENT LEGISLATION

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INTRODUCTION

Information, knowledge, and entertainment know no borders. Although a copyrighted work may have been created in a specific country under its own set of rules, often the market for the work may be national or, as is increasingly the case, international. Given this reality of the marketplace, over the last 100 years or so, nations have entered into various international agreements, treaties, or conventions to provide protection for member signatories and to attempt to harmonize other aspects of their copyright laws.² Historically, the United States has been slow to fully adapt its copyright laws to international norms.³

For example, U.S. copyright law expressly denied protection to foreign works until 1891. It was common practice for U.S. publishers to purchase and import copies of foreign books and then

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2. The lack of reciprocal protection in the 18th and 19th centuries was one of the factors that led to the harmonization movement. At the time, U.S. Copyright law expressly denied protection to foreign works until 1891. See DAVID NIMMER & MELVILLE NIMMER, 4 NIMMER ON COPYRIGHT § 17.01 (Matthew Bender 2007). See also Catherine L. Fisk, *Knowledge Work: New Metaphors for the New Economy*, 80 CHI. KENT L. REV. 839, 864-65 (2005); Steven A Hetcher, *The Music Industry's Failed Attempt to Influence File Sharing Norms*, 7 VAND. J. ENT. L. & PRAC. 10, 10 (2004).

3. It was not until the International Copyright Act of 1891, commonly known as "the Chace Act" that there was any protection available for foreign authors in the United States. After 1891, if the work were manufactured in the United States and formalities were followed, there could be protection for a foreign work. The United States, after 1891, entered into several bilateral agreements with other nations. Despite the fact that many of the European States, however, had become members of the Berne Convention for the Protection of Literary and Artistic Rights ("Berne Convention") in or shortly after 1886. For various reasons, the United States did not officially become a signatory member for over one-hundred years, in 1988. The effective date of the amendments to the Copyright Act of 1976 based upon the Berne Convention Implementation Act was March 1, 1989.