

Why are
cinematographers
authors?
Why it is important to
be recognized as
authors?

PROPOSALS OR INPUTS OF
PROFESSIONAL SERVICES AND ACTIONS
OF IMAGO IN THE AREA OF AUTHORSHIP
RIGHTS FOR ITS MEMBERS SOCIETIES
AND INDIVIDUAL MEMBERS

AUTHORSHIP COMMITTEE
REPORT IAGA BELGRADE/SERVIA
MARCH 2019

PRELIMINARY OBSERVATIONS



This proposal of new strategy CAN NOT include the global presentation of the results of the survey initiated in autumn of 2016, presented preliminarily in Helsinki 2018, and until now still to be completed due to the denial of some members' societies of collaboration. Nevertheless, the complete summary of the survey's results will be posted on the IMAGO's WEB as soon as possible and published in the BSC magazine.



The Committee is aware that its function can not only be to give recommendations or action plans. During the last years many proposals have been presented to the IAGA without any result in the practice.



This is why this time the proposals concentrate on an educational aspect and a new concept of assistance for cinematographers referring to the authorship question.

The Presentation is divided into four items

01

A.- Authors' rights vs. Copyright

02

B.- Authorship of cinematographers

03

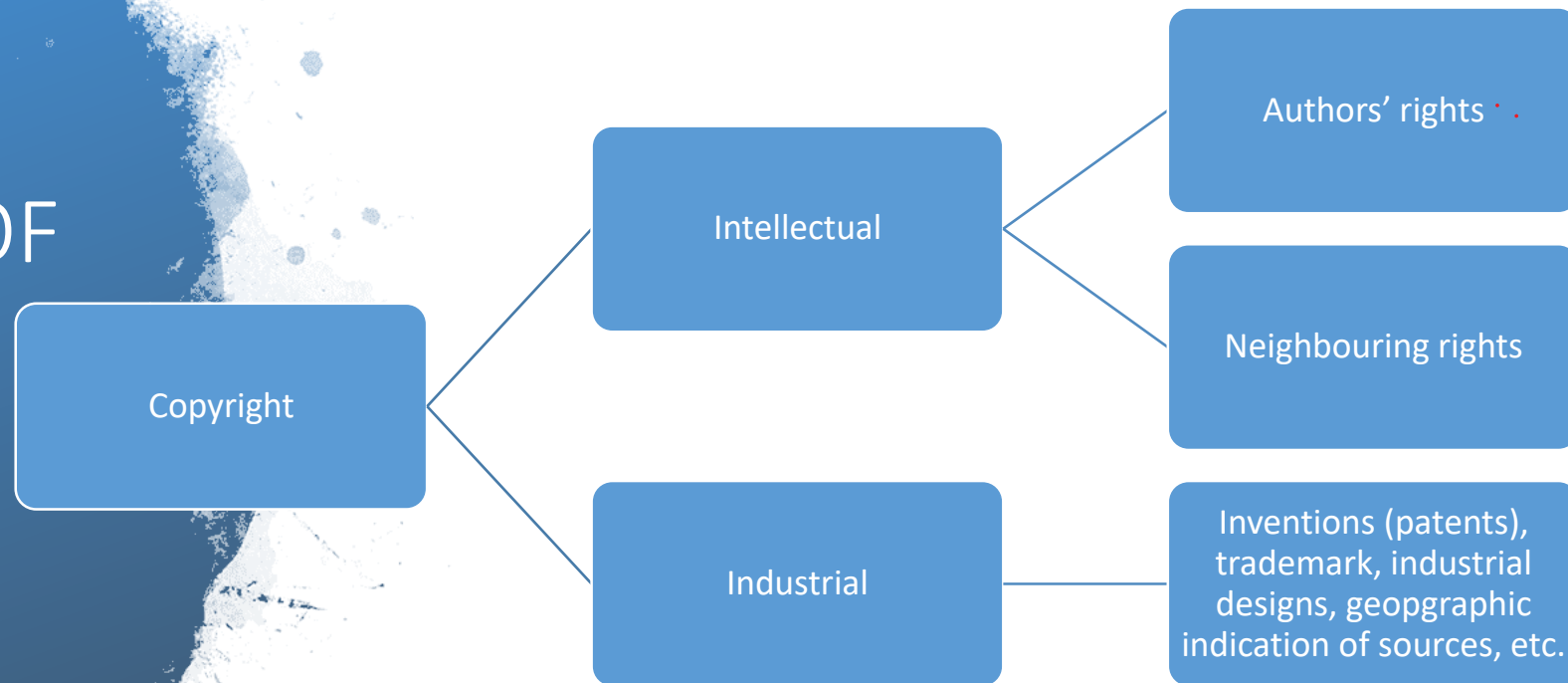
C.- Very short update of the results of the survey

04

D.- Proposals or Inputs

BASIC NOTIONS OF COPYRIGHT

Authors' rights vs. Copyright



AUTHOR'S RIGHTS vs. COPYRIGHT I

INDUSTRIAL COPYRIGHTS

Need to be **REGISTERED** to enjoy legal protection and in some cases, to pass an official examination or check before registering.

They do not refer to an author as a natural person, so those rights **DO NOT RECOGNIZE ANY MORAL RIGHTS TO THE AUTHORS**, even if these are defined in the Berne Convention.

Legal protection is max. 20 years and prevents others from making, using, selling, etc a protected invention, trademark, etc.

INTELLECTUAL COPYRIGHTS

Are exclusive rights and prevent others also from reproducing, distributing, and public communication, etc.

Those exclusive rights **DO NOT NEED ANY REGISTER** at all and the protection is much longer than the one of industrial copyrights, just automatically by International Conventions (and their conditions).

We will now focus on AUTHOR'S RIGHTS.

AUTHOR'S RIGHTS

- An Author or a co-author can only be a “natural” person who creates a work either individually or with other creatives.
- In order for Copyright law to protect an author there has to be an ORIGINAL creative work.
- The IDEAS in the work do not need to be original, but the FORM of expression has to be original. This is to say, the author has to “imprint” his mark of personality upon his/her creative work. If there is co-authorship EACH co-author has to contribute his personal, original creation

CINEMATOGRAPHERS AS COAUTHORS OF THE FILM

Cinematographers have great influence in all important creative elements of the film. In particular, the visual and the lighting design corresponds almost only to him/her. As the lighting design is a very elemental part of the film, since it provides every individual image with its own special atmosphere, and also influences the feeling of the whole film, it is the cinematographer who imprints his /her mark of personality upon the film, together with the director, for example.

**CINEMATOGRAPHERS
AS AUTHORS OF
PHOTOGRAPHIC WORK
WHICH FORMS PART
OF THE FILM ITSELF**

As mentioned above: The lighting and visual design of a film constitutes the main responsibility of the cinematographer. Therefore during the process of filming, he/she will decide the focus or fixation of the image the lighting, etc., creating with his/her personal style individual photographic works, which achieve the level of originality required by the law. It is commonly accepted that a “PART” of an original work can be protected as individual original work when it fits in with the standard of originality.

CONCLUSIONS

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- All cinematographers are authors, irrespective of whether they created their lighting and camera work while being employed, or worked on hire or contract as freelances
- All cinematographers are authors, irrespective of the kind of audio-visual work they created (TV series, movies, documentaries, etc.) and the kind of media

CONCLUSIONS II

All cinematographers are:

- Co-authors of cinematographic work
- Authors of the individual photographic work included in the film
- And authors of the cinematography itself (Vittorio Storaro)

CONCRETE REQUIREMENTS I

As AUTHORS, all cinematographers must have full exclusive economic rights which entitle them

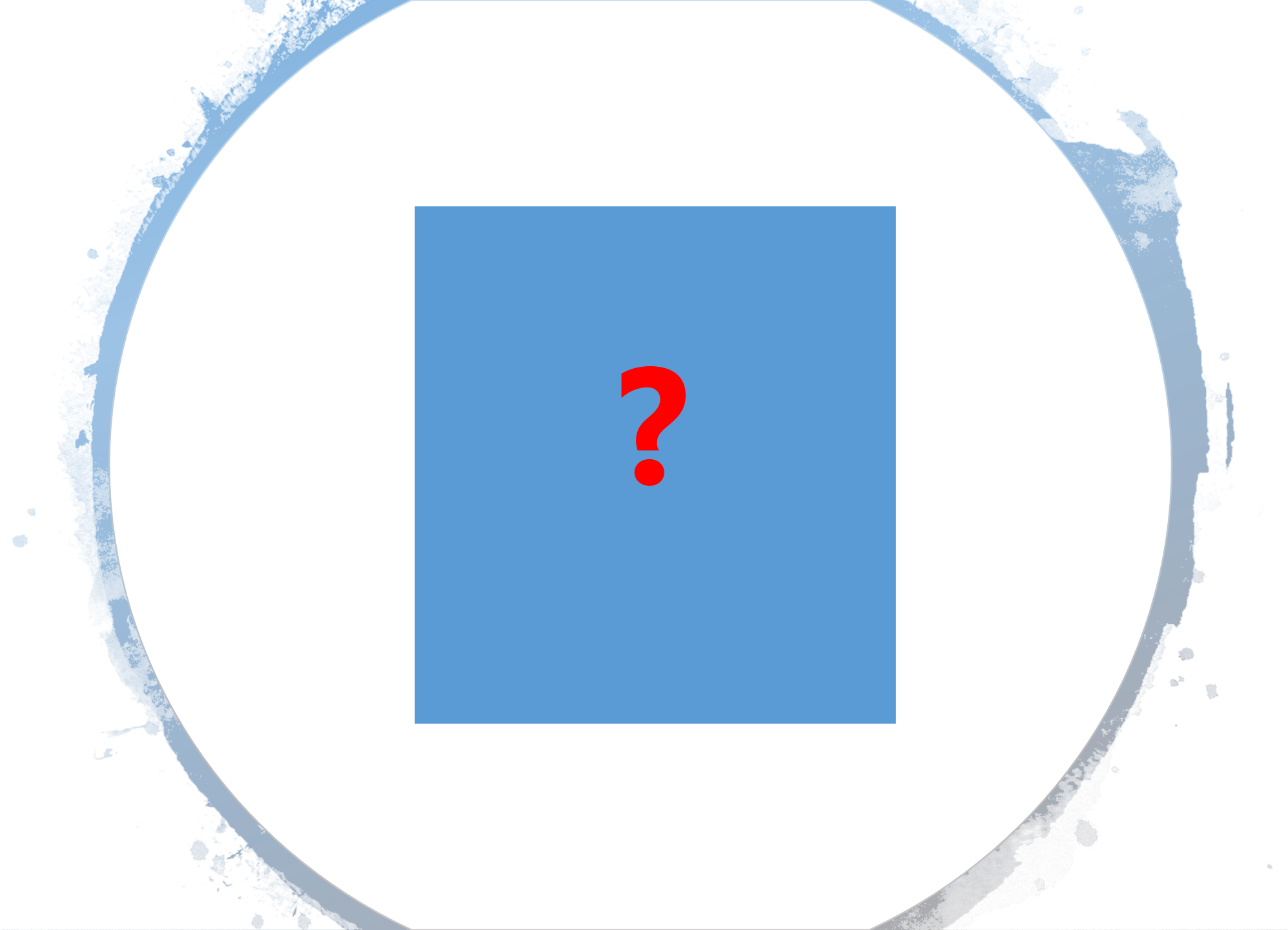
- a) to control the exploitation of the film
- b) to participate in the income of all modes of exploitation of the film
- c) to receive remuneration collected by Collecting Rights Societies

CONCRETE REQUIREMENTS II

- As AUTHORS, all cinematographers must have unwaivable moral rights which entitle them, at least,
- a) to be named as author and to oppose themselves against false attribution
- b) to preserve the whole of the cinematographic or audiovisual work, once finished the post-production and consequently to object to any derogatory treatment, colorization, destruction of the work, inappropriate or derogatory context, modification of duration, etc.



ARE YOU STILL WONDERING IF YOU WANT TO BE RECOGNIZED
AS AUTHOR AND BE PAID A FAIR SHARE AND YOUR AUTHOR'S
MORAL RIGHTS BEING PROTECTED?



Very short update of the results of the survey

The Authorship Committee began on the 25th of September of 2016 with the first extensive fieldwork about the international experience of protection of Author's rights of cinematographers.

- 49 Member's associations answered to the survey after continuous reminders.
- There are still associations who do not have answered even after six reminders until today.



25 countries recognize cinematographers as co-authors of film.

20 countries of those 25 countries recognize at the same time cinematographers as authors of the photographic works of the film.

In 7 countries of complete legal protection of cinematographers as co-authors and authors of the photographic works of the film cinematographers do not enjoy protection of collecting rights societies in their country.

**PROPOSALS OR INPUTS OF
PROFESSIONAL SERVICES AND
ACTIONS OF IMAGO IN THE
AREA OF AUTHORSHIP RIGHTS
FOR ITS MEMBERS SOCIETIES
AND INDIVIDUAL MEMBERS**

1.- IMPLANTING CONSULTING SERVICES AND GUIDELINES IN MATTERS OF AUTHOR'S RIGHTS FOR MEMBER SOCIETIES AND INDIVIDUAL MEMBERS

(included, for example),

- Consulting for the correct application of the author's rights in his/her contractual relationship (there should be a fixed standard fee),
- Ten points and orientation of control of a proposal of contract, according to the MODEL CONTRACT proposed by IMAGO

2.- PROFESSIONAL ELABORATION OF TRAINING OF THE MEMBERS OF IMAGOS'S MEMBER ASSOCIATIONS

(Including, for example):

- Edition of MULTIMEDIA TRAINING COURSE of Author's Rights and Contractual Law available in the web of IMAGO for members only
- DOSSIER FOR AUTHOR'S RIGHTS FOR IMAGO'S MEMBERS (presentation in IAGA and afterwards available on IMAGO's Web-site)
- Organization of Seminars of legal content for Member's Associations or in the educative sector of film schools, universities, which will be on a national level, but could be also organized on international level.

3.- DRAFTING GUIDELINES OF PROMOTION OF RELATIONSHIP AND AGREEMENTS OF COLLABORATION WITH OTHER ASSOCIATIONS OF CREATIVES IN THE AUDIOVISUAL SECTOR

Including, for example:

- Organizing conferences in juridical-professional matters with them
- Communication and interaction with member Societies and information about this on IMAGO's website, promoting commons statements in order to lobbying IMAGO's and other Associations

4. – APPOINTING EXPERTS IN AUTHOR'S RIGHTS FOR THEIR POSSIBLE INVOLVEMENT AS EXPERTS IN LEGAL OR EXTRALEGAL CONFLICTS.

IMAGO as International Federation should prepare an official list of Experts in cinematography whose involvement could be asked by individuals, being members of IMAGO or not, for their judicial conflicts, of course following appropriate payment.

5.- DRAFTING GUIDELINES TO PROMOTE RELATIONSHIPS AND AGREEMENTS WITH COLLECTING RIGHTS SOCIETES OR FEDERATIONS OF COLLECTING RIGHTS SCOCIETIES.

IMAGO should increase direct contact to different Collecting Rights Societies regarding claiming remuneration for second use of creations of cinematographers, which should include Collecting Rights Societies which collect for their national member (recognized co-authors of audio-visual works) but do not revert the sums collected by them to foreign cinematographers who are not recognized in their own countries. Which is a clear discrimination and big loss for cinematographers not recognized as co-authors in their countries.

6.- DRAFTING GUIDELINES TO PROMOTE RELATIONSHIPS AND AGREEMENTS WITH UNIONS AND FEDERATIONS OF UNIONS INVOLVED IN THE PROMOTION OF BETTER WORKING CONDITIONS WHICH ALSO INCLUDES FAIR REMUNERATION.

Including, for example:

- Intensifying contact with EURO-MEI
- Intensifying contact on national law with unions involved in the audio-visual sector

THANK YOU VERY MUCH

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IMAGO

