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In the series "Quaderni di ALAI Italia", the Italian branch of the Association Littéraire et Artistique Internationale intends to offer an overview of the current issues in the field of copyright, also in a comparative and international perspective, in particular through the publication of the proceedings of ALAI’s Meetings and Congresses.

The series is open to contributions from the community of scholars and practitioners involved in Copyright studies and research.

ALAI Italia applies transparency rules in the selection of the contributions, which may be in Italian or English. The Scientific Committee is in charge of the selection of the essays that are published and has the responsibility of the editorial guidelines. They are oriented in particular to the analysis and evaluation of the effects of technology on the creation and production of intellectual works, on their dissemination and economic exploitation and on the attitudes of the final users. The interactions between copyright and the development of the cultural industry are among the matters the series is focused on.
Applied Arts under IP Law

The uncertain Border between Beauty and Usefulness

Proceedings of the International Congress
of the Association Littéraire et Artistique Internationale (ALAI)
Rome, 15–16 September 2016

Les Arts Appliqués dans la Législation sur la Propriété Intellectuelle

La Frontière incertaine entre Beauté et Utilité

Actes du Congrès International
de la Association Littéraire et Artistique Internationale (ALAI)
Rome, 15–16 Septembre 2016

edited by / sous la direction de
Stefania Ercolani

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Foreword

Stefania Ercolani∗

As it is customary, the conference proceedings of ALAI annual international congresses are published in a book. The proceedings of the 2016 ALAI congress, held in Rome, make no exception. Indeed, one of the purposes of the publication is the enlargement of the debate beyond the circles of scholars and practitioners that attend our congresses. It is my hope that, thanks to the high level of interventions and the wide range of the reports dedicated to the protection of Design, such a purpose will be achieved also by this book.

The book is published by ALAI Italia, the Italian branch of the Association Littéraire et Artistique Internationale, that had the honor to host the international congress in 2016, in coincidence with the 75th anniversary of the issuance of the Italian Copyright Act, one of the most long-standing copyright laws in the world.

The historical perspective is familiar to ALAI, founded at the end of 19th century in Paris. Thanks to its deep-rooted commitment in the legal protection of literature and art, embodied in its name, over the years ALAI has kept widening its horizons well beyond the original scope of the Berne Convention, in parallel with the evolution of Copyright. In fact, since that historical international treaty, Copyright has proved to be flexible enough to evolve with technology and capable to apply to new types of creations and innovative forms of exploitation. It is no surprise, therefore, that throughout the 20th century, Copyright has progressed on “the uncertain border between beauty and usefulness”, extending its coverage to software, databases and being confirmed among the tools for the protection of industrial design.

The legal implications of the interaction between art and industry were the leitmotif of the 2016 ALAI Congress. The legal protection of Design is at the crossroad between various branches of intellectual property, and naturally suggests for comparison and benchmarking of diversified experiences. In the different options available for the protection of Applied Arts and Design, it can be perceived the continuity of legal tools that follow p

* President ALAI Italia.
allel paths. In the field of Applied Arts, the distinction/separation between Copyright, Patents, Design and unfair Competition has particular contours, that are explored by the reports published here.

The dichotomy between the beautiful and the useful is not inherent to the concept of art. Ancient Greeks defined with the same word τέχνη art, skill and craft and it is not by chance that the terms “artist” and “artisan” contain the same root. The distinction between “fine arts” and minor arts was unknown during the Renaissance, when the relationship between art and artisans, between the artist and his workshop marked Western civilization. Let us just think of one of the absolute geniuses of humanity, Leonardo da Vinci, whose work harmoniously combines applied arts and fine arts, not to mention that his eclecticism led him to visionary intuitions, suggesting how creativity can open new paths to technical-scientific progress. We could even go so far as to say that, in some way, the “Unitè des Arts”, codified by the European Directive 98/71/EU of 13 October 1998 on the legal protection of designs has an ancient illustrious precedent in the Renaissance workshop.

The humanistic vision of Copyright does not imply, however, a nostalgic Weltanschauung. Copyright has been capable to reconcile the immaterial form with the physical embodiment of intellectual works and has then adapted to the dissemination of intellectual works in digital formats. Equally, the 2016 ALAI Congress ranged from history to the future, showing how we are on the verge of an impressive technological development involving intellectual property, as it is testified in the final part of this book, devoted to 3D technology and its impact on IP paradigms.

While Copyright adapts to unpredictable developments and new realities, its raison d’être, the protection of creativity in all its forms, remains firm. The final intent of the legal protection of intellectual works (and the bridge between copyright and droit d’auteur) is to give authors and artists the necessary moral and material incentives to undertake a creative career, therefore providing the main tool to increase our cultural heritage for the generations to come.
Opening speech

FRANK GOTHEN∗

Ladies and gentlemen,

Dear friends and colleagues,

First of all, I would like to convey my own sorrow and, in the name of ALAI, offer our sincere condolences to the people of Amatrice and surroundings, so deeply affected by the recent terrible events.

Mon cher Victor,

Je suis très honoré, mais en même temps très embarrassé par les paroles trop aimables que vous venez de prononcer à mon égard. Succéder à un fin diplomate, artiste de surcroît, à quelqu’un qui, ensemble avec Yves Gaubiac, a dirigé l’organisation pendant vingt années n’est pas une mince affaire. Surtout quand on ne porte pas, comme lui, le prénom qui vous prédestine à la succession de Victor Hugo.

Il est vrai que l’honneur est grand de pouvoir s’inscrire dans la lignée de tant de présidents illustres qui ont marqué la vie de notre Association. Je pense notamment à Georges Koumantos, ou encore, avant lui, au Professeur Henri Desbois, qui, m’ayant reçu à bras ouverts lorsque j’étais encore étudiant, est devenu mon maître à penser. Jamais je n’aurais cru pouvoir un jour leur succéder.

Pensant à Victor Hugo il est bon pour notre association de se rappeler l’esprit dans lequel il a agi. Ainsi qu’il appert du très intéressant ouvrage historique de Jean Cavalli, pour Hugo, les problèmes de droit d’auteur dépassaient les questions de bonne technique juridique. Il ne s’agissait pas seulement de bien fignoler des textes, il fallait surtout songer à améliorer la situation économique et sociale de ceux et de celles qui sont à la base des créations protégées, c’est-à-dire, les auteurs, personnes humaines. Il est bon de se le rappeler à l’heure des défis qui nous attendent dans la société de l’information.

Nous sommes très heureux de pouvoir à nouveau vivre un Congrès de l’ALAI en Italie. La dernière fois remonte déjà à 1987, qui était l’année du

∗ Professeur émérite de l’Université de Leuven (KU Leuven), Président de l’ALAI.


Ayant vécu de près les péripéties de l’organisation d’un Congrès international dans mon pays, je sais que le poids de l’organisation tend toujours à peser sur certaines épaules plus que sur d’autres. À Bruxelles, c’était en premier lieu Fabienne Brison, aujourd’hui notre nouvelle Secrétaire générale. À Rome, maintenant, c’est sans doute en premier lieu Stefania Ercolani. Succédant à Mario Fabiani, ce gentleman que nous n’oublierons jamais, elle a porté sans crainte la charge la plus redoutable dans la mise en œuvre de ce congrès italien qui fait battre nos cœurs. Nous lui sommes tous reconnaissants.

È un grande onore e un piacere speciale per me, di essere in grado di aprire una conferenza in questa città, centro mondiale della cultura, e di poterlo fare nella lingua di Dante.