

北美事務協調委員會駐美國辦事處

Coordination Council for North American Affairs  
Office in U.S.A.  
4201 Wisconsin Avenue, Washington, D.C. 20016

Ref. No.: EC-78-043

June 27, 1989

Mr. David N. Laux  
Chairman of the Board  
and Managing Director  
American Institute in Taiwan  
1700 N. Moore Street, #1705  
Arlington, VA 22209

Dear Mr. Laux:

I have the honor to acknowledge receipt of your letter of June 1989, concerning the agreement reached between our representatives on the protection and enforcement of rights in audiovisual works. Your letter reads as follows:

"Dear Mr. Ding:

I have the honor to refer to the recent meetings held between representatives of the Coordination Council for North American Affairs and the American Institute in Taiwan concerning the protection and enforcement of rights in audiovisual works. As a result of these meetings, our representatives reached an agreement, the text of which follows:

AGREEMENT CONCERNING THE PROTECTION AND ENFORCEMENT  
OF RIGHTS IN AUDIOVISUAL WORKS BETWEEN  
THE COORDINATION COUNCIL FOR NORTH AMERICAN AFFAIRS  
AND THE AMERICAN INSTITUTE IN TAIWAN

The Coordination Council for North American Affairs (CCNAA) and the American Institute in Taiwan (AIT) recognizing the benefits of strong protection for copyrighted works, the broader and more rapid distribution of a wide range of audiovisual works, and the importance of effective enforcement of rights through all available means have consulted on the means to achieve these objectives.

- I. In order to eliminate the unauthorized reproduction, sale, leasing or other distribution, importation or exhibition of any audiovisual work independent of the medium of fixation (herein referred to as "audiovisual works") in MTV centers and other facilities,

including but not limited to barber shops, massage parlors, kara-oke bars, hotels, and buses, CCNAA agrees to ensure that the authorities it represents take the following actions:

1. to initial by May 31, 1989, the AIT-CCNAA bilateral copyright agreement agreed to by both parties, incorporating the definition of "public performance" agreed to during consultations held on March 20-21, 1989;
2. to introduce at the outset of the Fall 1989 session of the Legislative Yuan amendments to the 1985 Copyright Law incorporating mutually agreed upon language defining "the right of public presentation" in Article 3 (30) of the Copyright Law and to take all necessary steps within its power to encourage enactment of this amendment by the Legislative Yuan by December 31, 1989;
3. to interpret Article 3 (16) of the Copyright Law as covering all audiovisual works, including laser discs, regardless of the medium of fixation; to amend the enforcement rules to the Copyright Law to state explicitly that the provisions of Article 3 (16) apply to all forms of audiovisual works, including laser discs, regardless of the medium of fixation; and, if necessary to give effect to this interpretation, to introduce expeditiously an amendment to the Copyright Law which defines audiovisual works independent of the medium of fixation, and to take all necessary steps within its power to encourage its early enactment by the Legislative Yuan;
4. to require all MTVs to obtain Government Information office (GIO) licenses by December 31, 1989 and to conform to all regulations governing zoning, health, and safety regulations;
5. to require all audiovisual works shown in MTV centers and other facilities (as described above) to be licensed for such use by the GIO, and to require further that distributors of all audiovisual works licensed by GIO after July 1, 1989 affix to each such work and each copy thereof a sticker issued by GIO;
6. in accordance with the Enforcement Plan approved by the Executive Yuan on May 4, 1989, to conduct frequent and repeated raids on licensed and unlicensed MTV centers as well as on any other facilities engaged in exhibiting audiovisual works,

and to devote sufficient resources to that Plan;

7. in instances involving the unauthorized leasing and exhibition of audiovisual works, to impose the maximum penalties permissible, including (1) confiscation of all audiovisual works not authorized for use in such establishments; (2) in all cases where permissible under the law, confiscation of all equipment used in the unauthorized exhibition of such works; (3) in the absence of special circumstances to the contrary, imposition of the maximum fines permitted under the law; and (4) cancellation of operating licenses in cases involving more than two violations of the applicable laws and regulations. Such actions shall be taken under the provisions of the Broadcasting and Television Law, the Enforcement Rules for the Broadcasting and Television Law, the Rules Regulating Enterprises Supplying Broadcasting and Television Programs, and all other pertinent laws or regulations;
  8. in instances involving the leasing and exhibition of pirated audiovisual works, GIO will confiscate all pirated audiovisual works in accordance with the provisions of Article 45-2 of the Broadcasting and Television Law. GIO shall inform the Ministry of Interior (MOI) of MTVs and other facilities engaging in infringement, and MOI representatives shall inform copyright owner representatives. Pirated audiovisual works and the equipment used to produce and exhibit them shall be seized and confiscated in accordance with the provisions of Articles 35 and 46 of the Copyright Law. Individuals who engage in such activities as an occupation shall be prosecuted under Article 40 of the Copyright Law and shall not be permitted to "buy out" jail terms. Government prosecution counsel shall in all cases recommend the maximum penalties provided for under the Copyright Law.
- II. In order to eliminate the unauthorized reproduction, sale, leasing or other infringing distribution, or importation audiovisual works, CCNAA agrees to undertake the actions provided for in paragraphs I(6) and I(8) above with respect to video rental stores, "underground factories" and any other person, entity, or establishment engaged in such activities.
  - III. CCNAA agrees to review with AIT on a quarterly basis enforcement progress, and to provide enforcement statistics. Such statistics shall detail raids conducted by GIO and MOI under the Broadcasting and Television Law

and the Copyright Law, and the number of copies of audiovisual works seized. In addition, CCNAA will make every effort to provide information about prosecutions by government prosecution counsel and the results of such prosecutions (e.g., number of prosecutions, settlements, and fines and jail terms imposed).

- IV. CCNAA and AIT agree to consult promptly on any matter relating to alleged unauthorized reproduction, sale, leasing or other distribution, importation, or exhibition of audiovisual works at the request of either side.
- V. AIT recognizes the importance of the efforts and the commitments made by CCNAA in this agreement to protect the interests of owners of copyright in audiovisual works. AIT anticipates that effective implementation of these commitments, when viewed with other ongoing CCNAA initiatives, will contribute significantly to the improvement of trade relations between the two territories.

Please confirm that this exchange of letters reflects our mutual understanding of our agreement on the protection and enforcement of rights in audiovisual works.

Sincerely,

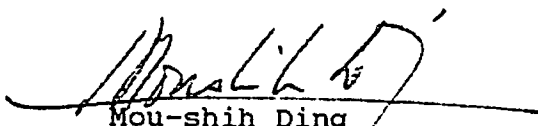
David N. Laux  
Chairman of the Board  
and Managing Director

Enclosure:

Memorandum of Understandings,  
May 19, 1989"

I am pleased to confirm that this exchange of letters is a mutual understanding of our agreement on the protection and enforcement of rights in audiovisual works.

Sincerely,

  
Mou-shih Ding  
Representative

Enclosure.



AMERICAN INSTITUTE IN TAIWAN

1700 N. Moore Street  
Suite 1705  
Arlington, Virginia 22209  
Tel: (703) 525-8474  
Fax: (703) 841-1385

June 6, 1989

Mr. Ding Mou-shih  
Representative  
Coordination Council for  
North American Affairs  
4201 Wisconsin Ave., N.W.  
Washington, DC 20016-2137

Dear Mr. Ding:

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I. In order to eliminate the unauthorized reproduction, sale, leasing or other distribution, importation or exhibition of any audiovisual work independent of the medium of fixation (herein referred to as "audiovisual works") in MTV centers and other facilities, including but not limited to barber shops, massage parlors, kara-oke bars, hotels, and buses, CCNAA agrees to ensure that the authorities it represents take the following actions:

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for use in such establishments; (2) in all cases where permissible under the law, confiscation of all equipment used in the unauthorized exhibition of such works; (3) in the absence of special circumstances to the contrary, imposition of the maximum fines permitted under the law; and (4) cancellation of operating licenses in cases involving more than two violations of the applicable laws and regulations. Such actions shall be taken under the provisions of the Broadcasting and Television Law, the Enforcement Rules for the Broadcasting and Television Law, the Rules Regulating Enterprises Supplying Broadcasting and Television Programs, and all other pertinent laws or regulations;


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Sincerely,



David N. Laux  
Chairman of the Board  
and Managing Director

Enclosures:

1. Memorandum of Understandings,  
May 19, 1989.
2. Draft Letter from Ding Mou-shih  
to David Laux.

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