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Comment to Parliament, re: Copyright Amendment Bill  
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In light of some of the commentaries we have seen on the latest Copyright Amendment Bill we would like to bring the following issues to the attention of the IP Portfolio Committee:

1. You have received a submission made on behalf of USAf purportedly on behalf of all South African universities. Unfortunately, because of time constraints, a number of universities, including Stellenbosch University, were not consulted for the purposes of the USAf submission and, as a result, the views contained therein do not necessarily reflect the views of Stellenbosch University or Innovus.
2. The areas of commentary permitted for this latest draft Bill excluded certain key clauses. We trust that commentary will still be obtained with respect to the other clauses of the Bill. In many of these clauses changes have been made as compared to the previous draft and the adequacy of such changes must clearly be considered. As an example, the proposed amendment to Section 22(1) of the Act proposed by clause 23 of the Bill introduces a 25 year limit on the assignment of copyright in all literary and musical works. This is an amended and more limited proposal to that which was contained in the previous draft Bill. However, it still has very serious and apparently unintended consequences. At the very least it does not appreciate the fact that "literary works" include compilations of data, which means that under the amended draft it is still impossible for people and businesses effectively to obtain, sell or transfer their own database assets (typically key assets of any business). Not only is the entire notion of restricting people's freedom to trade and to buy and sell their own assets highly problematic, the reversion of copyright after 25 years likely constitutes an arbitrary deprivation of property. In our view the entire clause is irreconcilable with our constitutional values and will undoubtedly deter technological development and investment. Yet, this clause was not open for comment. This is of grave concern.
3. Our understanding is that the Panel of Experts advising the Portfolio Committee on the Copyright Amendment Bill are made up of representatives of industry bodies and political organisations (in some cases with very limited experience in copyright law). We urge the Portfolio committee to obtain the participation of copyright experts on the Panel of Experts. Retired Appellate Court Judge Louis Harms, a renowned expert in intellectual property law, and retired Stellenbosch University Professor Owen Dean, author of the leading text book on the subject, are obvious candidates.
4. We request that another round of oral submissions before the Portfolio Committee be accommodated on the latest draft Bill. This can occur before or after further amendments are made based on the written submissions currently being submitted.

Stellenbosch University would greatly appreciate if the IP Portfolio Committee can urgently consider and respond to these requests.