SUMMARIES

THE EMERGENCE AND DEVELOPMENT OF THE FIRST SALE DOCTRINE IN THE UNITED STATES OF AMERICA

Péter Mezei

As part of a series of publications the present article aims to introduce the historical development and definitional elements of, further the relevant policies behind the „first sale doctrine" in the federal copyright law of the United States of America. The development of the „first sale doctrine" has been determined by the judicial constructivism through the past century. As a result of this the doctrine – that was first regulated by the United States Copyright Act in 1909 – has allowed for the resale of lawfully transferred copies of copyrighted works in several dimensions of life. Since digital technologies have emerged and have become dominant the practical importance of the doctrine has not only revaluated, but heavily questioned as well. The clear intent of the article is to serve as an introduction for the discussion of the problematic of „digital exhaustion".

SELF-ANTICIPATORY DIVISIONAL APPLICATIONS

Dr Tivadar Palágyi

In 1925, at the Hague Revision Conference of the Paris Convention, the right of the applicant to divide his application(s) if it is not unitary, maintaining the original priority, was promulgated. In 1958, at the Lisbon Revision Conference, the applicant has got the right to divide his application at his own initiative, maintaining his original priority. After some decades it turned out that, under certain circumstances, a divisional application may become anticipatory as to the novelty of the basic application and vica versa. This contribution discusses this problem in detail and gives some advices to escape such pitfalls.

A FAMOUS, REPUTED MARK – THE BEATLES

Dr Sándor Vida

Marks with reputation enjoy a special protection also under Article 8(5) of the Regulation on Community marks. An application was filed for the term BEATLE in Class 12 in particular for wheelchairs made for sick and disabled persons. Opposition was filed by the owner of the BEATLES marks. Though OHIM's Opposition Division rejected it, the Board of Appeal annulled the latter decision holding that opponent's mark is very famous for sound records,

video records and films and as a result the applicant would take unfair advantage of the repute of the earlier marks. The applicant filed sue with the EU General Court. The latter judged (T-369/10) that the attack is unfounded and confirmed the opinion of the Board of Appeal particularly in respect of the reputation of the earlier marks and that of the concerned public. The appeal against this judgement was dismissed by order of the EU Court of Justice (C-294/12). The latter found also that even if the goods listed in the application are different from those of the opponent, Art 8(5) of the Regulation envisages expressly such a situation. In the report on this case the author says, that the BEATLES marks were and are reputed in Hungary, too, moreover in the sixties the Beatles-style, not favoured by the politics, was considered by young people as a sort of political delimitation. The situation changed twenty years later, when sounds records with Beatles songs were made also in Hungary.

JUDICIAL PRACTICE OF THE REIMBURSEMENT OF THE ENRICHMENT GAINED BY TRADEMARK INFRINGEMENT

Dr Pál Zsigó

The paper presents the calculation of the amount of unjust enrichment through trademark case law. It also gives a short overview of the English, German and French jurisprudence. The article outlines the aspects of determinating the amount of enrichment and also the problems typically arising in connection with such cases.

ON THE MARGIN OF AN ARTICLE – SUPPLEMENTS TO THE REGULATION OF WORKS CREATED UNDER EMPLOYMENT

Dr Dénes Legeza

The legal situation of the works created under employment was not cristalclear in the past at all. What rights in what extent has the employer and what has the employee? Does the author still have the moral rights? Is the company entitled to grant licence to a third person? How the payment and the royalty can be harmonized in the era of the planned economy? ...just a few among the many questions which concern the copyright qualification of the works created under employment. The study reviews the development of the regulation of this legal field, introduces the achivements of the professional arguments leading towards to the regulation in force, furthermore the ambitions for codification in the sixties. Among the historical perspective the author concernes the problem of the lack of regulation in the matter of works created under the studies also.