SUMMARIES

CIVIL LAW ISSUES IN CONNECTION WITH THE PROCESS OF FILM PRODUCTION IN HUNGARY AND IN THE UNITED STATES, WITH SPECIAL REGARD TO COPYRIGHT

Dr Sándor Takó

Film making has grown into a billion dollar industry and feature films are more than just seventh art they mean power. The concept of film as a business is in the process of becoming a determinative factor around the world which brings legal systems of different kinds closer. The purpose of this research is to show and critically approach the number of legal provisions and measures that both Hungary and the U.S. implemented to establish a business-oriented background for the film making industry. On the other hand this study seeks to analyze and assess the copyright and civil law questions of film making from the light bulb moment to the distribution of movies.

GENUINE USE IN RESPECT OF VARIATIONS OF A MARK

Dr Sándor Vida

Art 15 (2) (a) of CTMR provides on genuine use in a form differing in elements which do not alter the distinctive character of the registered mark. This provision was already interpreted by the EU Court in the PROTI case (C-553/11). In the infringement procedure Specsavers v. Asda before the Court of Appeal (England and Wales) the latter referred to the EU Court with a similar and some further questions. Relating to the similar question the EU Court's reply (C-252/12) was almost identic with the previous one, i.e. that in the PROTI case. The author of the article believes that as the Sec. 18 of the Hungarian TM Act is identic with Art. 15 CTMR, for Hungarian lawyers this interpretation is not surprising. For Hungarian practice the said judgement can be though useful relating to device mark families, like the marks MEDVE or PANNONIA (cheese) or TÚRÓ RUDI (curd with chocolate-glaze) and HBO (television services).

ON THE MARGINS OF THE CISAC CASE BECOME UNIMPORTANT

Gábor Faludi – Eszter Kabai

The article describes and evaluates from the aspect of copyright lawyers acting for Artisjus, the Hungarian musical and literary collective management society the case initiated by the

European Commission against the European musical collective management societies on account of their alleged concerted practice. The General Court decided for the collective management societies, among other Artisjus save for one society that committed a procedural default. The disputed concerted practice – in the view of the Commission – would comprise of the omission of the societies to amend their reciprocal representation agreements including territorial scope (limitation) with regards to their simultaneous mandates granted to each other to license online uses, satellite broadcasting and cable retransmission. The authors go through the phases of the procedure. They explain that although the favourable decision is based on procedural reasons, the reasoning justifies also consequences to be drawn with regards to the merit. The General Court does not see the grounds of the elimination of the territorial limitation of the representation agreements because also the monitoring of and actions against the illegal, unlicensed uses requiring local activity constitute parts of the tasks of the collective management societies. Therefore there may also be objective reasons and not only the alleged concerted practice of the societies to justify the sustaining of the territorial limitations. The authors are of the opinion that the local legal or factual monopoly aggregating many repertoires– if properly overseen by governments – is the most effective way to fulfil the tasks of collective management both from the aspect of right holders and commercial users. The CISAC case has become unimportant, since the repertoires have been fragmented in the field of the online usages. It remains to be seen whether the optimal re-aggregation of the repertoires can be achieved via the Directive on collective management.