

Kluwer Copyright Blog

Latvia: recently added copyright cases

Magda Papēde (Albert Ludwig University, Freiburg) · Tuesday, April 22nd, 2014



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To satisfy the increasing curiosity about what is happening in the copyright courts of other EU member states, we regularly publish short overviews of cases that were recently added to the database. The two recent judgements of Supreme Court of Latvia below were summarized and added to the database by Magda Papēde, Albert Ludwig University, Freiburg.

Supreme Court of Latvia, 12 March 2014 Latvia: Misappropriation of authorship (criminal case)

In 2006 J.G., a student at one university, contacted Z.S., a student at another university, and asked if Z.S. could send her thesis by e-mail. Z.S. sent J.G. the thesis under disclosure that it should only be used as a source of information and no copying, in whole or in part, was allowed. In 2007 J.G. submitted the thesis of Z.S. as her own. She had only done some minor changes to the original work. In 2008 the thesis was even published in a book without giving credits to Z.S. as the real author. J.G. was accused to have committed a misappropriation of authorship, which should be regarded as a criminal offense according to Section 148 (3) Criminal Law (as in force until January 1, 2011).

According to the court misappropriation of authorship is not explicitly mentioned in Section 148 Criminal Law and not punishable under Criminal Law. By saying this the court did not interpret the meaning of "copyright infringement" as provided for in Section 148 (1) Criminal Law and did not try to find out whether misappropriation of authorship could be a form of copyright infringement.

Supreme Court of Latvia, 28 februari 2014, E against AS “Lauku Avize”

E., a natural person, discovered that here portrait was published in a newspaper without her permission. She claimed to be the author of the photograph and demanded, inter alia, a remuneration for the use of the work without permission. Additionally, E. demanded compensation for the infringement of her moral and economic author’s rights according to Article 69 (1) Copyright Law.

The court of cassation had to decide whether a copyright holder in case of an infringement should be entitled to receive both a remuneration for using its work and a compensation for the infringement itself. This had been denied by the court of appeals.

The court of cassation explained that the author’s right to receive a remuneration for permission to use his work or for using the work without a permission as provided for in Article 15 (4) Copyright Law was one of the author’s economic rights. It should be distinguished from compensation for copyright infringement under Article 69 (1) Copyright Law (as in force until February 28, 2007), that aims to fully remedy the consequences of the violation of author’s rights, both economic and moral, prescribed by Article 14 and 15 Copyright Law. This is why an author shall receive both the remuneration and the compensation. Only in this way can the punitive character of the civil remedies be ensured.

Full summaries of these cases can be found at www.kluweriplaw.com

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