The Single Market and copyright protection of formats

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Copyright Protection of Formats in the European Single Market

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In today's market, the question is answered in different Member States. While, for instance, the Dutch Supreme Court considers in the case "Survive! vs. Big Brother" that the format of Survive! is protected by copyright but was not infringed upon by the format of Big Brother, the German Federal Court of Justice decided in the case "Kranenbühl vs. Michel" that formats are not copyright protected. The format was seen as instruction how to recombine existing formats to create new ones, thus illustrating the current state of the discussion.

The Single Market, also called the Internal Market or the Single European Market, is a single market for goods and services within the European Union (EU). It allows for the free movement of goods, services, persons, and capital within the EU. The main goal of the Single Market is to create a territorial area without internal frontiers where economic agents from all Member States have the same rights and opportunities.

Copyright Protection of Formats

Copyright protection is an important aspect of the Single Market. Formats are creations of the mind, and they are covered by copyright. However, the interpretation of copyright protection for formats is not uniform across the EU. This can lead to uncertainties about the legal status of formats, which can hinder the free flow of formats between Member States.

The debate about copyright protection for formats has been ongoing for several years. The European Court of Justice (ECJ) has provided some guidance, but there are still differences in interpretation and application of copyright law across the EU. This can create challenges for businesses and creators who operate in the Single Market.

The Solution for the Right Balance between Low Level of Originality and Possibility to Freely Adapt Formats

A fair balance between low level of originality and the possibility to freely adapt formats is necessary to ensure the free flow of formats within the Single Market. Formats are creations of the mind, and they are covered by copyright. However, the investment of mere skills and labor cannot justify copyright protection. The creators have to prove that they made free and creative choices during the process of creation by selecting, combining, arranging, and configuring the elements of the format in a way that is novel or exceptional. This can be challenging for creators, especially in the Single Market, where the legal status of formats is uncertain.

Balance of Interests by Copyright Law

Copyright law is designed to balance the interests of creators and users. It provides an exclusive right to creators to reproduce, distribute, and display their works, while granting users the right to use these works for their own purposes. This balance is crucial for the Single Market, where the exchange of formats is essential for innovation and creativity.

The results of a recent study by the University of Konstanz and the Max Planck Institute for Innovation and Competition show that copyright protection for formats is important for ensuring a fair balance between the interests of creators and users. The study surveyed participants from various fields, including television and advertising, and found that copyright protection is seen as a critical factor for the successful exchange of formats.

Conclusion

Two aspects of the Single Market could lead to issues with copyright protection for formats. Firstly, the Single Market's size and diversity can lead to variations in the application of copyright law. Secondly, the lack of common definitions of formats can make it challenging for creators and users to determine whether their work is copyright protected. These factors highlight the importance of a consistent and transparent approach to copyright protection in the Single Market.

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In conclusion, copyright protection for formats is crucial for the Single Market. It ensures a fair balance between the interests of creators and users and promotes innovation and creativity. However, the challenges of defining formats and ensuring consistent application of copyright law highlight the need for further research and development in this area.