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Switzerland: Totenkopf-Tattoo (Skull-tattoo), Commercial Court of the Canton of Aargau, HSU.2014.68, 5 January 2015

Yaniv Benhamou (Lenz & Staehellin, Geneva) · Friday, October 16th, 2015

The court held that the applicable law is determined by the *lex loci protectionis* (Schutzlandprinzip), therefore the question of authorship in Switzerland is determined by the Swiss "creator's principle", not the British principle of "work for hire". Where it is claimed that there has been a parallel creation, inspired by elements in the public domain (and ignorance of a pre-existing work), this must be evidenced by concrete sources of inspiration. In the case at hand, the difficulties of assessing the amount of prejudice suffered justified interim measures, as the violation threatened to cause the applicant harm that would not be easily reparable.

A full summary of this case has been published on Kluwer IP Law.

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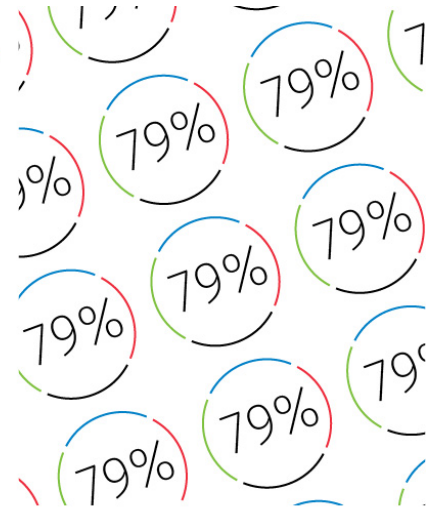
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