

4th WIPS Workshop: Limitations and Exceptions in Copyright Law

| Péter Mezei

The Institute of Comparative Law and Legal Theory of the University of Szeged, Faculty of Law and Political Sciences organized the fourth Workshop on Intellectual Property Rights in Szeged (WIPS) on 10 May 2019. This year's event was dedicated to provide a comprehensive and broad analysis of the concept of limitations and exceptions in copyright law. Presenters discussed various aspects of the ongoing debate related to musical samples, fundamental rights versus copyright law, and the copyright issues in the digital single market. The event also focused on external questions related to this field: broader human rights perspectives, the concept of misuse, public versus private interests.

The event was structured as follows. The first panel discussed the debated role and the depth of fundamental rights in copyright law. The panel, chaired by *John Cross* (University of Louisville, USA), started with the presentation of *Simon Apel* (SZA Schilling, Zutt & Anschutz and University of Mannheim, Germany), who introduced the procedural history of the "Metall auf Metall" case (originating from Germany), and its future prospects, with a special focus on conflicts of fundamental rights argumentation of the German Constitutional Court and the Opinion of Advocate General Szpunar. The topic offered the starting point for *Bernd Justin Jütte* (University of Nottingham, United Kingdom) and *Caterina Sganga* (Sant'Anna University, Pisa, Italy) to analyse in details the most recent fundamental rights related copyright cases of the ECJ, namely the *Spiegel Online*, the *Funke Medien* and *Pelham* cases. *Matej Myska* (Masaryk University, Brno, Czech Republic) provided an insight into his research on the analysis of ECJ case law, related to fundamental rights, as well as issues like the autonomous concepts of EU law. Finally, *Gergely Békés* (Békés Law Firm, Budapest, Hungary) discussed what a "performer" might mean in a 21st century environment, and how copyright law might need to react on the challenges artificial intelligence or CGI represent.

The second panel – chaired by *Péter Mezei* (University of Szeged, Hungary) – was dedicated to modern copyright questions, as well as future trends in (European) copyright law. *Clemens Appl* (Danube University of Krems, Austria) introduced the newly accepted text- and data mining exception of the Copyright in the Digital Single Market Directive. *Andrea Katalin Tóth* (Hungarian Intellectual Property Office and ELTE University, Budapest, Hungary) presented a general, but deep introduction to the whole structure of the newly accepted directive. *Tito Rendas* (Catholic University of Portugal, Lisbon) introduced his research on the possibilities (in fact, pro and counter arguments) related to an ECJ-made fair use test. *Philipp Homar* (Danube University of Krems, Austria) analysed the remuneration rights, and the conflicts deriving from the inconsistent domestic implementation of the rules of InfoSoc-Directive. Finally,

Iony Randrianirina (Lyon Catholic University, France) provided a colourful insight into the copyright challenges of works created by artificial intelligence.

The third panel – chaired by *Clemens Appl* – started with *John Cross'* arguments on how and why the doctrine of misuse might be eliminated from the copyright system of the USA. *Luis-Javier Capote Pérez* (University of La Laguna, Spain) discussed the public and private limits to IP rights with a special focus on Spanish case law on moral rights and public interests. *Péter Mezei* introduced the concept of *de minimis* under US law, and how it is used in musical sampling cases by the US federal courts; and whether it shall be applicable in a European environment as well. Last, but not least, *P. Blaise Bess* (NZZ NAGY LEGAL, Germany) discussed how human rights might apply in a business environment.

This volume of the *Medien und Recht International* includes eight articles, in which the authors summarize their opinion in writing that they presented on the fourth WIPS in May 2019. It is important to mention that during the editing process of the volume the ECJ has published its long waited fundamental rights versus copyright "trio" on 29 July 2019. Four of the workshop-articles therefore include a quick glimpse on the *Spiegel Online*, the *Funke Medien* and *Pelham* rulings.



Péter Mezei welcomes the participants in the 4th WIPS workshop.



Lively discussions on the podium (from left: Bernd J. Jütte, Simon Apel and John T. Cross)