SUMMARIES

DIGITAL SAMPLING IN THE US COPYRIGHT LAW „GROOVE ROBBERS", DO YOU GO DOWN INTO THE GRAVE?

Péter Mezei

Recycling former musical works enjoy as much participation as creating new songs in our modern musical culture. Spread all the way across the hip-hop world, digital sampling represents the type of processing methods where the creator of the secondary work of art (the samplor) copies a specific part (tune, voice or instrument) from an original audio record and in a manipulative way of its own, playbacks it in his or her own song. U.S. courts have, up till now, formed manifold opinions of this activity, incorporating views as against the law. Can one conclude this is the right approach in the U.S. copyright law? Is this possible in a system where the federal constitution declares the primary objective of copyright law not the appreciation of the creator, but to further the evolving creativity? With sampling legally accepted, how far and to what extent can a hip-hop producer go? This study reveals possible ways of answering these questions, pointing out one of the 'hot spots' of modern day copyright law.

REPACKED – ONE CASE, THREE DECISIONS THOUGHTS ON THE SCOPE OF DESIGN PROTECTION RELATING TO A PACKAGING

Gusztáv Szöllősi

As a consequence of the recodification of the Hungarian design protection system in accordance with the Directive 98/71/EC of the European Parliament and of the Council on the legal protection of designs the reconsideration of the legal practice relating to the scope of protection was unavoidable. This case study reflects the partially different interpretations of the terms such as „informed user", „overall impression" and „freedom of creator" by three different independent authority complemented by the comments of the author.

CONFLICT OF A MARK AND A TRADENAME. THE CASE CÉLINE BEFORE THE ECJ

Dr Sándor Vida

The owner of the famous French mark CÉLINE sued a French company in the province that sold clothing in a shop, name of which was also Céline. The national Court of first instance ordered to the defendant to change the trade name and the shop sign. The Court of Appeal of Nancy referred for a preliminary ruling. The ECJ (C-17/06) answered that the unauthorized use by a third party of a trade name identical to a prior mark with identical goods can be prevented in accordance with Article (1)(a) of the Directive. This preliminary ruling is in conformity to ECJ's established case law. Some comments are reviewed in the article, namely the British one of Evans, the German one of Kur and the French ones of Caron, Azema and Folliard-Mongurial. After a short review of the Hungarian jurisprudence conclusion is drawn, that the latter ought not be changed, it is in conformity with ECJ's ruling in the CÉLINE case.

THE TEST USED FOR DETERMINING OBVIOUSNESS IN CANADA

Dr Tivadar Palágyi

In June 2007, Canada's Federal Court of Appeal rendered a decision that dealt with several patent issues, most notably with the test for obviousness for invalidity of a patent. The Court provided a list of six principal factors and two secondary factors that may be considered in assessing obviousness. Besides, the Court ruled that a person of ordinary skill attempting to solve a problem would consider not only those elements of prior art designed to solve the problem, but would also consider obvious uses of familiar items beyond their primary purposes. The notional person of ordinary skill in the art under Canadian law seems to be far less well equipped than his American counterpart.

COPYRIGHT IN ANCIENT TIMES

Zsófia Lendvai

The article aims to investigate the roots of copyright in ancient times. It tries to show which aspects of copyright law existed already at those times and at what level and with what means were they protected. The main part of the article consists of the ancient Rome and Roman law.