

Case brief¹

PARTIES

Plaintiff: Hypermarket Film s. r. o.

Defendant: Občanská demokratická strana

FACTS

The facts of the case are follows: The plaintiff Hypermarket Film s. r. o. is a producer of the movie "Český sen". At the time of producing the movie the plaintiff prepared the opening of the fictitious hypermarket. The hypermarket was called "Český sen". Hypermarket Film s. r. o. prepared flyers to propagate this fictitious event. The plaintiff obtained the license to use these flyers and became the sole owner of these rights. The defendant used the same flyer as the illustration of some article. In the first instance, the court ruled in favour of the defendant. It decided that Občanská demokratická strana did not break the copyright of the plaintiff. The plaintiff appealed.

LEGAL ISSUES

The question raised by this case is whether the conduct of defendant was unauthorized use of copyright or not. When the court decides that conduct of defendant was unlawful the plaintiff is entitled to remedy. Remedy may be in form of penalty or apology.

THE RULING OF THE COURT

The court partly reversed the ruling of the first instance and decided in favour of plaintiff. The court ruled that the defendant is obligated to pay a penalty in the amount of 40.000Kč to aggrieved party. The court affirmed that the apology is not necessary.

REASONING OF THE COURT

The court reasoned that the defendant is obliged to pay the penalty because the violation of copyright caused the unjust enrichment of him but he did not cause the intangible harm of plaintiff therefore the publication of an apology is not necessary.

¹ Rozsudek Vrchního soudu v Praze ze dne 5. 6. 2006, sp. zn. Cmo 55/2006. Dostupné z: <http://www.ceskatelevize.cz/specialy/ceskysen/download/rozsudek.pdf>