

# Case Brief – Intellectual property

Parties of the case:

Plaintiff: **T. H.**      Defendant: **J. M.**

Plaintiff brought an action against defendant to pay 657 283 CZK as the rest of the loan 800 000 CZK to co-owner and to settle with co-ownership of their company.

In the first instance the court ruled that defendant have to pay 73 367 CZK and cancelled co-authorship of the parties of the case to the software that they invented. The court admitted copyright only to plaintiff. Defendant should pay 657 283 CZK but after the cancellation of the co-authorship is entitled to 375 000 CZK as half of software value and 208 916 CZK as compensation for co-ownership termination. Protest of defendant that he is entitled to compensation for the property from co-ownership that plaintiff sold, the court rejected.

The issue in this case is that according to Czech legislation, no one can waive his author rights. So court in the first instance was not entitled to cancel copyright. Moreover plaintiff said that he is not interested in the software, because of it needs regular updates. After the extinction of co-ownership of authors he will not update software so it will become useless. Also the decision about the compensation for sold co-ownership property was resolved wrongfully.

The court of Appeal argued that according to Copyright Act no one can waive his copyright. It is also impossible by the judgment of court. So the court of the first instance was wrong in cancellation of co-authorship. Defendant cannot be deprived of copyright. Moreover software loses its value because of not updating. The assessment to pay 73 367 CZK was decided wrongfully because of the co-authorship cannot be cancelled so defendant is not entitled 375 000 CZK. Also the protest for compensation cannot be rejected. First instance court required detailed description of sold property. It is not possible because of sale.

The court of Appeal reversed the ruling of the first instance court and returned it back to proceedings.

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Date: 21. 11. 2012