[AT] Film Music Composer's Right to Credits Amendment

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In a recently publicised case, the Oberster Gerichtshof (Supreme Court - OGH) recognised the right of a film music composer to have a list of credits amended, even though the list had previously been contractually agreed.

The plaintiff in the dispute heard by the OGH is a composer who, along with two other composers, wrote the music for a 90-minute film. In the end, only 4 minutes and 8 seconds of the music composed by the plaintiff was used. The film, including the credits, was played in the plaintiff's presence. In the credits, the plaintiff and the other two composers were named under the heading "Music". There was no indication as to which part of the soundtrack had been written by the plaintiff, nor of the fact that his composition accounted for a total of only 4 minutes and 8 seconds. After the director and producer had handed the film over to the commissioning broadcaster, the plaintiff announced that he did not want to be University of Vienna named as one of the composers of the music in the film.

The OGH ruled in the composer's favour. It reasoned that the naming of the author (Art. 20 of the Urheberrechtsgesetz - Copyright Act) constituted the outwardly visible exercise of his inalienable right to claim authorship of his work (Art. 19 of the Copyright Act). However, it was questionable whether or under what circumstances an author could subsequently amend such a credit. Although the OGH accepted that a tacit agreement had been reached, under which the plaintiff would be named in the film credits as one of several composers of the music, it recognised in this case the composer's right to amend this agreement unilaterally at a later date. It concluded that a composer should be allowed to withdraw consent for his name to be used if he did not wish (or no longer wished) to be associated with the music of other composers which, in his opinion, was "of extremely poor quality".

Beschluss des Obersten Gerichtshofs vom 16. Juli 2002, Aktenzeichen 4 Ob 164/02z

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Ruling of the Oberster Gerichtshof (Supreme Court) of 16 July 2002, case no. 4 Ob 164/02z

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