[SE] Damages for pirated merchandise products

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T-Shirts, merchandised by Sveriges Television (SVT), the Swedish public broadcaster, have been the subject of pirating activities. One of the company's most important programmes in terms of merchandising, is the popular children's programme Björnes Magasin . Björne is a big bear played by the actor Jörgen Lantz in disguise. The illegal T-shirts, picturing Björne, were sold in Stockholm. Trademark and copyright infringement is a criminal offence in Sweden and therefore, SVT reported both trademark and copyright infringement to the Public Prosecutor. The Public Prosecutor decided to bring only the alleged copyright infringement before the Stockholm Court of First Instance. The seller of the T-shirts in this case declared he had bought the goods on a market and that he had no idea that they were illegal copies. He also argued that he did not know the children's programme Björnes Magasin and that therefore, he had no reasons to suspect piracy. He referred to the fact that he had no children himself. To him the picture of Björne on the T-shirts was nothing more than a picture of any bear.

The Court noted that it can not be precluded that some adults, without children at home, have no knowledge of the programme. Since copyright infringement implies an intention or grave negligence by the perpetrator, the Court found it impossible to condemn for infringement in this case.

The seller was however condemned to compensate SVT for the use of the figure Björne. Out of the 50 000 SEK that SVT claimed, in the end 177 SEK were imposed by the Court to be payed to compensate for the 80 T-shirts that were sold before SVT took action against it. The other T-shirts were confiscated and destroyed.

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Decision B7-2255-96 by the Stockholm Court of First Instance.

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