[BG] FILMAUTOR brings a suit against BLIZOO for infringement of movie copyrights

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Article 21, paragraph 2 of the Bulgarian Copyright and Neighbouring Rights Act (CNRA) provides that the permission to re-transfer works by means of all other electronic communication networks simultaneously with the broadcasting or transfer in full and in an unmodified form by a different organization, may be granted only through an organization for collective management of copyrights. FILMAUTOR is an organization for the collective management of copyright. It has the right to conclude contracts on the use of the works of the authors in one or more ways and to collect moneys due, stemming from these contracts or from statutory stipulations. The organization may represent their own members before all juridical or administrative bodies whenever the rights they manage need to be protected. For the protection of these rights, the organization may take any legal action on their behalf, including filing claims (Article 40, paragraph 7 of CNRA).

After the negotiations with BACCO, the organization representing cable operators, which had been conducted for more than three years, FILMAUTOR initiated the protection of rights of its members - screen writers, directors and cinematographers. The retransmission of movies in the broadcasting programs was one of the main controversial points. The law determines that the author shall be entitled to the exclusive right to use the work created by him and to permit its use by other persons. The use includes cable transmission and retransmission of the work (Article 18, paragraph 2, section 5 of CNRA). The cable operators stated that there are not different types of use (TV broadcasting and cable operator retransmission) because they both occur on the same territory. They refused to sign a contract with FILMAUTOR for this type of use.

In 2013, FILMAUTOR brought a lawsuit against BLIZOO for copyright infringement of three Bulgarian movies, broadcasted by bTV and rebroadcasted by the cable operator to its subscribers, without being entitled to it: ‘The Goat Horn’, ‘A time of trouble - the threat’, and ‘A time of trouble - a time of violence’. bTV had settled the rights for this type of use. bTV was broadcasted by a great number of cable operators, including BLIZOO, which used the protected contents in the program to generate profit. In the course of the case, FILMAUTOR stated explicitly that they would however not have claims against bTV.

The Sofia City Court, the Sofia Appeals Court, and the Supreme Court of Cassation explicitly stated that FILMAUTOR had provided the broadcasting rights of the

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movies to bTV, but this right would not include the right of operator to grant permission for retransmission through a cable operator or any other technical means. FILMAUTOR reserved its right to grant permission for retransmission from the cable operator of bTV programs directly to the cable operators by requiring them to pay copyright fees. As there was no such contract between FILMAUTOR and the cable operator, in re-broadcasting the three movies, BLIZOO had infringed upon the rights of producers, screenwriters, and operators.

Решение на Софийски градски съд

http://legalacts.justice.bg/Search/GetActContentByActId?actId=Oh7mZ4CLsOM%3D

Decision of the Sofia City Court

Решение на Софийски апелативен съд

http://sofiaac.court-bg.org/index.php?im=93

Decision of the Sofia Appeals Court

Определение на Върховен касационен съд

http://www.vks.bg/vks_p03.htm

Decision of the Supreme Court of Cassation

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