

The State of Fine Art – New Perspectives on Artistic Copyright

Program Afternoon session: 3 p.m. to 6 p.m.

Welcome Speech: Helga Trüpel (Member of the European Parliament)

Opening: Werner Schaub (Speaker of the Board IGBK and Member of the Executive Board VG Bildkunst)

Panel I: Resale Right

Resale right is specific remuneration for fine artists who are selling the originals of their works and—without resale right remuneration—have no chance to participate financially in the success their works generate in the market. After resale right was harmonized throughout the European Union by the 2001 Resale Right Directive, and fully implemented in all member states by end of 2011, resale right implementation remains at present pending in Switzerland, China and the United States. It is expected that WIPO (World Intellectual Property Organization), too, shall discuss making resale right an obligation in international copyrights treaties. This development is very important for fine artists. It may contribute considerably to their income and the information necessary to collect the remuneration is often difficult to obtain. However, management of resale right by collecting societies faces opposition from the art market. In order to find reasonable solutions for the art market and the artists, the European Commission in 2013 summoned a stakeholder dialogue which led to a common position for the management of resale right remuneration in the member states. This common position paper was formulated and signed by the International Association of Art Market Professionals, EVA, the European Visual Artists Society and practice experts from member states.



The panelists on this topic are **Martin Leskovjan**, the lawyer to the Czech Collecting Society for resale right GESTOR, who reported on the difficulties and challenges in the management of resale right in an emerging European art market and



Marie-Anne Ferry-Fall, the director of the French visual arts Collecting Society ADAGP, which is strongly pushing forward the lobby activities for the implementation of resale right both in WIPO and in the USA, China and Switzerland. She addressed best practice models to overcome difficulties in resale right management.

Panel II: Copyright Contracts

Photographers, illustrators and designers are usually freelancers and self-employed authors. They earn their income by licensing their works to agencies, publishers and anybody who would want an individual license for the reproduction of their works. Usually these freelance authors are confronted with copyright contracts which demand the full worldwide buy-out on the basis of lump sum payment—often the remuneration is far from adequate. Several attempts have been made to protect the authors' position in the negotiation of copyright contracts. However, none of them led to satisfying results.



Martin Beckett, a British photographer, described the problems freelancers are confronted with when negotiating copyright contracts.



Annouk Siegelaar is an expert on copyright contracts for the Association of Dutch Designers. She informed us about possible solutions to these problems as well as discuss how legislators can possibly react to protect authors better.

Panel III: Private Copy Remuneration

Private copy remuneration indemnifies all authors for uses made of their works under the legal limitation to the exclusive right for private copying, which is known in almost all member states. The remuneration is collected mainly through levies on copying devices and storage media. Private copy remuneration in many countries of the European Union is the core of the collective authors' remuneration and an important additional source of income for their members. In Spain, however, a dramatic change in the practice of private copy remuneration was made by the government in 2012.



Carlos Sanz Sánchez described the effect of the Spanish legislation on private copy remuneration and what that means to authors of all repertoires.



Urban Pappi, director of the German visual arts Collecting Society, VG Bild-Kunst, informed us about the German practice of all collecting societies joining in a common organization for the collection of private copy remuneration, as well as the problems which the German collecting societies have in negotiations with industries and possible solutions.

Panel IV: User Generated Content and ISP Responsibility

The topic has constantly been addressed by politicians and internet industries. The problem with user generated content is that it has been mainly generated by private users who are using copyright protected material they find on the net and in other sources to include into new works, transform it and amend it. This user generated content again is then shared via the internet. Politicians and internet industries complain about the difficulties of the users to obtain a license or the user copyright protected material in user generated content.



Gerhard Pfennig former director of VG Bild-Kunst and now spokesman of the German “Initiative Urheberrecht” (Authors’ initiative on copyright) reflected on possible solutions to the problem.



Alexander von Arotin explained the artist view on and experience with user generated content.

Closing Speech



Pavel Svoboda (Member of the European Parliament)
Chairman of the Committee on Legal Affairs

Moderators



Carola Streul (EVA)



Johannes Studinger (UNI MEI)



Ariane Joachimowicz

Evening reception

Video screening: "High Heel Obsession" by Klaudia Stoll and Jaqueline Wachall
(29:37 min)