

ECS Conference – Building a EU unitary copyright

12 May 2017 – Paris - SciencesPo

The European Copyright Society (ECS) was founded in January 2012 by several European copyright law professors with the aim of creating a platform for critical and independent scholarly thinking on European Copyright Law. Its members are renowned scholars and academics from various European countries, seeking to promote their views of the overall public interest. The ECS has released several opinions on discrete legislative proposals or evolutions of European copyright. In some of them, like in the *Letter to Commissioner Oettinger on Unification of Copyright Law*, the ECS has advocated for the adoption of a unitary copyright protection, similar to the unitary protection that exists in the EU for trade marks or design rights. Such a unitary right would overcome the problems of territorial fragmentation of online content markets and would constitute a more ambitious solution for the building a genuine Digital Single Market. Such a unification of copyright could be done by way of a European Regulation that would replace national legal titles, on the legal ground of article 118 of the TFEU, and its specific competence for the European legislature to establish intellectual property rights with direct Union-wide effect.

A European Unitary Copyright would establish a truly unified legal framework, replacing the multitude of sometimes conflicting national rules that presently exists. It would have instant Union-wide effect, thereby creating a single market for copyrights and related rights, both online and offline. It would enhance legal security and transparency, for right owners and users alike, and greatly reduce transaction and enforcement costs, including those resulting from the still pending issues of jurisdiction and applicable law to copyright infringements online.

Any unification of copyright law in the EU is a project of the middle or long term and is not part of the current copyright reform that has been initiated in 2015 in the EU. But this is not unrealistic. For there is a need to initiate that process as soon as possible, this conference, organised by European Copyright Society, aims at launching the debate and lay the foundations for the construction of a EU unitary copyright .

The discussions will include the need for such a unitary protection and explore the institutional aspects and the process of such unification, such as the competence of the EU to create such a unitary right, the issue of formalities, that are prohibited in copyright by the Berne Convention, as well as the issue of bridging the different copyright and *droit d'auteur* traditions in Europe.

There are different models of unitary IP rights in the EU, some coexisting with national rights, as for EU trade marks and design rights, other having substituted completely to national protections, as for geographical indications and appellations or origins. What could be the model for a unitary copyright? Would it replace or complement national protection?

The possibilities offered to the lawmaker by comparison with the models existing for other IP rights will be explored, as well as the articulation between the EU copyright to be created and national copyrights, if the model of coexistence is chosen.

Finally, what could be the substantive content of a EU unitary right? Which issues will be covered and which ones will still be ruled at national level (assuming that the option for a coexistence between EU copyright and subsisting national copyrights is preferred). What will be the criteria to draw the line between what belongs to unitary protection and what is left for national protection? What will be the scope of unitary effect, in terms of licensing, copyright clearance or enforcement? What rules of authorship, subject-matter and conditions of protection, economic rights, moral rights, exceptions, contractual protection of authors, enforcement, should be adopted?

PROGRAM

9.30 Welcome – Séverine Dusollier (SciencesPo Law School)

9.45 -10.45 Introductory session – The need for unification

Valérie-Laure Benabou (University of Aix Marseille) - Martin Kretschmer (Glasgow University - CREATE) - Tatiana Synodinou (University of Cyprus)

10.45 – 11.00 Coffee Break

11.00 – 12.30 Session 1 – Institutional frame and objectives

- EU competence, including the enhanced cooperation - Christophe Geiger (Strasbourg University – CEIPI)
- Creation of a copyright “title” and the issue of formalities - Séverine Dusollier (SciencesPo Law School)
- Bridging different legal traditions - Alain Strowel (Saint-Louis University and UCLouvain)
- What about EFTA countries and post-Brexit countries - Lionel Bently (Cambridge University)

12.30-14.00 Lunch

14.00 – 15.30 Session 2 - Cumulation or substitution of national copyright with EU copyright

- Cumulation or Substitution in comparison with other IP rights and articulation between EU copyright and national copyrights- Lionel Bently (Cambridge University), Martin Senftleben (VU University Amsterdam), Graeme Dinwoodie (Oxford University)
- The applicable law in a model of subsisting national protections - Raquel Xalabarder (Universitat Oberta de Catalunya, Barcelona)
- Enforcement and judiciary system: Community trademark courts or unitary patent court- Michel Vivant (SciencesPo Law School)

15.30 – 16.00: Coffee Break

16.00 – 17.30 Session 3 – Substance of a unitary copyright (conditions of protection, ownership, rights, exceptions, duration, enforcement, contractual protection of authors, ...)

Panel with Thomas Dreier (Karlsruhe Institute of Technology), Bernt Hugenholtz (Amsterdam University - Iplr), Jonathan Griffiths (Queen Mary University of London), Reto Hilty (Max Planck Institute for Innovation and Competition, Munich), Marie-Christine Janssens (Leuven University), Estelle Derclaye (Nottingham University)

17.30 The view from the European Commission – (tbc)

Location: SciencesPo – Auditorium Caquot – 28 rue des Saints-Pères – 75007 Paris

Free – Necessary registration (deadline 7 May 2017)

Registration: on <https://www.eventbrite.fr/e/ecs-conference-building-a-eu-unitary-copyright-tickets-33309515658>

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