European Intellectual Property Review

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EUROPEAN COPYRIGHT SOCIETY

ECS Position Paper on the Opinion of the Advocate General in the Case HP Belgium v Reprobel before the Court of Justice of the EU 71
On 11 June 2015, A.G. Pedro Cruz Villalón delivered his Opinion in the HP Belgium v Reprobel case now pending before the Court of Justice of the EU (CJEU). The Advocate General’s Opinion and the underlying case raise one important issue: is it permissible for a national copyright law to allocate a portion of the fair compensation (for reproductions exempted under art.5(2)(a) and (b) of the 2001/29 Infosee Directive directly to publishers, although they are not listed among the initial holders of the reproduction right under art.2 of the Infosee Directive? As a group of academics concerned about the copyright reforms envisaged in the EU as well as by the interpretation and development of the law by the CJEU, the European Copyright Society (ECS) takes this opportunity to share its view on this matter of principle.

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Creative Foundation v Dreamland Leisure Ltd results from a dispute between a landlord and tenant over rights to an unsolicited Banksy graffiti work on an external wall. The rights of the landlord prevailed over those of the tenant, as would be expected, but consideration of Banksy’s rights was notable by its absence. This article summarises the position between landlord and tenant, and goes on to propose a number of ways Banksy might have attained rights in the work under intellectual property and personal property law.

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