

Abstract

Collective administration of copyright, focusing on the unjust enrichment from the collective rights manager's point of view

Key words: Collective administration, copyright, unjust enrichment

This master's thesis is focused on the collective management of copyright in the Czech Republic and it especially focuses on the issue of claiming an unjust enrichment from the collective administrator's perspective.

The main aim of the theses is to introduce the aforementioned and systematically discuss the legal adjustments and the functioning of the institutions on both theoretical and practical levels.

The theses is divided into two imaginary halves, the first half focuses on the collective administration of copyright in general terms, the second half deals with the enforcement of unjust enrichment by the collective administrator itself. The thesis is divided into ten chapters.

The first chapter deals with the basic definitions of the concept of collective administration and its inclusion into the Czech legal system as well as the definitions of the basic concepts and issues used in this area of law.

The second chapter briefly discusses the history of collective administration in the world as well as in the Czech Republic.

The third chapter describes the rights which are the subject of collective administration and the modes in which those rights are collectively managed.

The fourth chapter describes the legal requirements for the legal entity applying for becoming a collective administrator, describes the proceedings that lead to the granting of an authorization to exercise collective administration rights and mechanisms of supervision over the exercise of collective administration, along with the possibilities of withdrawal of the authorization of the performance.

The fifth chapter provides an overview of the currently existing Czech collective administrators and gives a brief description of the activities of every one of them.

The sixth chapter defines the institute of unjust enrichment first in general and then in the point of view applied by the collective administrator claiming the legal remedies.

The seventh chapter deals with the specific mechanisms used by the collective administrators for enforcing and claiming the unjust enrichment. The chapter also describes the complete process from the control of individual outlets to the extrajudicial and judicial enforcement of unjust enrichment.

The eighth chapter deals with the occasions when there is a doubt if there is a public performance of works protected by intellectual property law and if it constitutes the collective administrator's right to sue for claiming the unjust enrichment. The chapter also lists the most common misconceptions and puts them into the right perspective.

The ninth chapter is focusing on specific cases such as the enforcement of unjust enrichment from hotels and spas, where different rules for claiming the unjust enrichment are applied by the collective administrators. At the same time, this chapter describes the evolution of case law in these cases and in other cases where there is a change in the assessment of unjust enrichment by the Czech courts.

The tenth chapter gives a final summary and an overview of the issues connected to collective administration of copyright and the enforcement of the unjust enrichment by the collective administrators. The final chapter also evaluates the most problematic aspects and gives a critical reflection on them. At the same time the chapter contains proposals for a future satisfactory functioning of the collective administration.