Summary

Exercise of copyright by person other than the author (or author's heirs).

Within the scope of my thesis, I tried to describe an exercise of copyright by a person other that the author (author's heir), according to the current legislation of the Czech Republic. I devoted the first part of the paper to a general copyright, which belongs to special personal laws, to wit to the group of the rights to the outcomes of the intellectual activity. The Czech Republic is among the countries with relatively long and rich tradition of protecting the intellectual property. In other parts of my paper, I analyzed the term author, which may only be a physical entity that created the work of authorship. With respect to the subject of my paper, I explained in detail the cartographic works of authorship, computer programs, and computer databases. Furthermore, I dealt with a creation and content of the copyright, personal rights, and property rights. The Copyright Act of the Czech Republic is based on a dualistic principle of distributing the rights to intellectual property. The personal rights terminate by the death of a person holding the right, and the property rights are transferred to the heir of a person holding the right.

The fourth chapter of my paper is fundamental because it analyzes the legal exercise of the copyright by a person other than the author. The Copyright Act contains a special provision concerning certain works. Such works are the employee's work of authorship, teamwork of authorship, and contractual work of authorship. Based on the legislation, only in these instances the person different than the author may be entitled to the enforcement of all property rights and of the rights to use the work of authorship.

The legal concept of the employee's work of authorship improves the rights of an employer and such results directly from the law. Therefore, no special agreement is necessary between the employer and the employee. Under the current legislation, the employee's work of authorship may be created within any type of an employment contract and according to any types of agreements closed pursuant to the Labor Code Act of the Czech Republic. The method of creating the employment contract has no effects from the viewpoint of the copyright. The Copyright Act does not differentiate between the employment based on the employment contract or based on the other types

of agreements. Important fact is that the work must be created within the scope of the agreed type of job. The employee's work of authorship created within the execution of the occupational duties does not have to be covered by the employment or similar contract stipulating that the employee would create such work. The right to the outcomes of the intellectual activity shall be given to a physical entity; however, the employee's work of authorship is subject to exclusion, where the property rights are executed by the employer pursuant to current legislation. Therefore, the employer can be either the legal or the physical entity. The entitlement to the enforcement of the exclusive property authorship rights always goes to the employer. An exception to this rule is an agency employment, which is governed by Section 58 Paragraph 9 of the Copyright Act laying down that for the purposes of an employee's work of authorship, an employer shall be the person temporarily employing an employee creating the employee's work of authorship. These are therefore the alienated property rights. The employer executes these rights on own behalf and to its own cost. The author is only left with the sole authorship rights (copyrights). The current law does not differentiate whether the work would be used for internal purposes or made accessible to the public. The employer may exercise the rights to the given employee's work of authorship only after the work has been created. The provision of Section 58 Paragraph 6 of the Copyright Act stipulates that an author shall be entitled to an appropriate remuneration for the creation of an employee's work of authorship within the scope of the wages and salaries, or other types of compensation for the author's performance. The special stipulation on employee's work of authorship leaves a certain space for provisional modifications. Based on the contractual freedom, it is possible to create different types of legal relationships between the employer and the employee.

The three types of works of authorship, namely the computer programs, computer databases, and cartographic works of authorship, which are not the teamwork of authorship, shall be considered as the employee's works of authorship even if created by an author as contractual works of authorship. In such cases, the client is the employee.

The term teamwork of authorship is a new provision of Section 59 Paragraph 1 of the Copyright Act. It is the work created by more than one author; it is started and managed by an initiator, published under the initiator's name, whereat the contributions

to such work of authorship cannot be used individually. The legal enforcement of property rights therefore does not affect the individual contributions but the entire teamwork of authorship. Especially the computer programs, computer databases, and cartographic works are considered as the teamwork of authorship. The law designates the teamwork of authorship as a special category because of the legal extension of the employee's work of authorship to these types of works, which otherwise do not meet the terminology of an employee's work of authorship. Therefore, same as with the employer in the case of the employee's works of authorship, the investor into the teamwork of authorship shall have much stronger standing than the common client of the work pursuant to Section 61 of the Copyright Act, who can use the work only for the purposes resulting from the contract.