

SUMMARIES

THE PROBLEMATICS OF ESTABLISHING PECUNIARY DISADVANTAGE IN THE EVENT OF CRIMES INCLUDED IN CHAPTER XXXVII OF THE CRIMINAL CODE OF HUNGARY

Krisztina Sztoján

The author analyses the question of financial loss in the event of an infringement of copyright (Section 385 of the Criminal Code) and industrial property rights (Section 388 of the Criminal Code). The methodology includes empirical analysis and a dogmatic approach: the conclusions are based on 19 individual judgments, taking into account the dogmatic character of the rules of private law which provide the content of the examined criminal offences.

The essence of the research topic was whether a common calculation method could be outlined in the related case law in order to define the exact amount of financial loss, and thus whether a common – or at least consistent – case law exists that does not violate the requirement of legal certainty. However, the analysis of individual judgments made it clear that courts apply a wide range of different calculation models, which could lead to significantly different results. Typically, the interpretation of the related rules of private law or underlying civil law provisions leads to inappropriate methods being applied.

In the case of the infringement of industrial property rights, the prevailing case law related to the interpretation of the behaviours concerned can also not be ignored: the courts amend the semantic meaning of these behaviours through teleological interpretation, the result of which means that it becomes theoretically impossible to even talk about financial loss.

The uncertainties in the related case law can therefore be traced back to these two reasons, so their resolution is possible only by eliminating these two reasons in a two-stage system. Problems relating to the determination of financial loss require action from the legislator and the law enforcement bodies as well.

PIRATES IN ACADEMIC BOOK AND JOURNAL PUBLISHING – PART II.

Máté Gergely Walsh

In this second part the author examines the main business models of the scientific publishing industry. He finds an extremely profitable industry developing into an oligopoly, which insists on maintaining its business model based on the free or minimally compensated work of the scientific community, while causing grave financial difficulties to the scientific institutions throughout the world. Examining the critiques of the scientific publishing industry from a copyright aspect with the help of doctrinal and case law analysis the conclusion is that the

existing legal framework is far from satisfying for today's scientific community with respect to the need for scientific communication and knowledge transfer. The relevant free uses are often devoid of content, while lawful use is cumbersome. Finally, the arguments against the copyright protection of scientific works and a few alternative models are analyzed.

ENFORCEMENT OF PATENTS IN THE UNITED KINGDOM

Dr Tivadar Palágyi

This article treats the enforcement of patents in the United Kingdom. It describes the different items of this process, such as the courts to be used in patent matters and the preparation for oral proceedings. In urgent infringement cases an intermediary proceeding and an ex parte decision is possible. The damages and other compensations are described in detail. Finally the appeals and the cost factors are treated.