

Eleonora Rosati

# ORIGINALITY IN EU COPYRIGHT

Full Harmonization through Case Law



# Originality In Eu Copyright Full Harmonization Through Case Law

**Estelle Derclaye**

## **Originality In Eu Copyright Full Harmonization Through Case Law:**

Originality in EU Copyright Eleonora Rosati,2013-10-31 Through an assessment of the originality requirement this work guides the reader in interpreting judicial decisions which are of fundamental importance to current and future understanding of EU copyright The book s holistic approach and methodology t

Research Handbook on Intellectual Property and

Artificial Intelligence Ryan Abbott,2022-12-13 This incisive Handbook offers novel theoretical and doctrinal insights

alongside practical guidance on some of the most challenging issues in the field of artificial intelligence and intellectual

property Featuring all original contributions from a diverse group of international thought leaders including top academics

judges regulators and eminent practitioners it offers timely perspectives and research on the relationship of AI to copyright

trademark design patent and trade secret law

Artificial Intelligence and Intellectual Property Jyh-An Lee,Reto M.

Hilty,Kung-Chung Liu,2021 This edited volume provides a broad and comprehensive picture of the intersection between

Artificial Intelligence technology and Intellectual Property law covering business and the basics of AI the interactions

between AI and patent law copyright law and IP administration and the legal aspects of software and data

Governance of

Intellectual Property Rights in China and Europe Nari Lee, Niklas Bruun,Mingde Li,2016-01-29 Intellectual property IP law

has been widely discussed in recent scholarship though many recent works explore the topic from a largely descriptive

perspective This book provides an analytical and comparative study of Chinese and European IP law as well as an analysis of

system reforms in China The book highlights in three parts intellectual property for innovation and creativity in China

comparing concepts and norms in Chinese and European IP law and governance of practices and IP enforcement

Demonstrating that the governance of IP rights requires the adoption of a set of norms the contributors also argue that

success is dependent on a transformation of the perspectives and implementation Students and scholars of IP law and

Chinese IP law in particular will find this book to be a valuable resource to their work It will also be of interest to IP

practitioners looking for an insight into system reforms in China

**Intellectual Property Law** Lionel Bently,Brad

Sherman,Dev Gangjee,Phillip Johnson,2022 Intellectual Property Law is the definitive textbook on this subject an all

embracing and detailed guide to intellectual property law It clearly sets out the law in relation to copyright patents trade

marks passing off and confidentiality whilst enlivening the text with illustrations and diagrams

**Artificial Intelligence,**

**Design Law and Fashion** Hasan Kadir Yilmaztekin,2022-12-30 Artificial intelligence AI now infiltrates our culture After a

couple of difficult winters AI today is a word on everybody s lips and it attracts everyone s attention regardless of whether

they are experts or not From Apple s Siri to Amazon s Alexa Tesla s auto driving cars to facial recognition systems in CCTV

cameras Netflix s film offering services to Google s search engine we live in a world of AI goods The advent of AI powered

technologies increasingly affects people s lives across the globe As a tool for productivity and cost efficiency AI also shapes

our economy and welfare AI generated designs and works are becoming more popular Today AI technologies can generate

several intellectual creations Fashion is one of the industries that AI can profoundly impact AI tools and devices are currently being used in the fashion industry to create fashion models fabric and jewellery designs and clothing When we talk about AI generated designs we instead focus on the fruits of innovation more best selling apparels more fashionable designs and more fulfilment of customer expectations without paying heed to who the designer is Designers invest a lot of talent time and finances into designing and creating each article of clothing and accessory before they release their work to the public Pattern drafting is the first and most important step in dressmaking Designers typically start with a general sketch on paper add styles elements and colours revise and refine everything and finally deliver their design to dressmakers AI accelerates this time consuming and labour intensive process Yet the full legal consequences of AI in fashion industry are often forgotten An AI device's ability to generate fashion designs raises the question of who will own intellectual property rights over the fashion designs Will it be the fashion designer who hires or contracts with the AI programmer Will it be the programmer Will it be the AI itself Or will it be a joint work of humans and computers And who will be liable for infringement deriving from use of third party material in AI generated fashion designs This book explores answers to these questions within the framework of EU design and copyright laws It also crafts a solution proposal based on a three step test and model norms which could be used to unleash the authors rights holders and infringers around AI generated fashion designs **3D**

**Printing and Intellectual Property** Lucas S. Osborn, 2019-09-05 Focuses on the novel issues raised for IP law by 3D printing for the major IP systems around the world **Judge-made EU Copyright Harmonisation** Eleonora Rosati, European University Institute, Law Department, 2012 Over the last few years political and academic attention has focused on the future of copyright at the EU level Following two decades of piecemeal legislative interventions which have resulted in a limited harmonisation of the copyright laws of EU Member States a debate has ensued as to the feasibility and desirability of achieving full copyright harmonisation at the EU level This might be obtained either through a EU copyright code encompassing a codification of the present body of EU copyright directives or by way of a regulation to be enacted pursuant to new Article 118 1 TFEU aimed at creating an optional unitary copyright title Thus far however no such legislative initiatives have been undertaken Despite this impasse the CJEU has notably been acting in a proactive way inching towards full harmonisation With its 2009 decision in Case C 5/08 Infopaq the Court provided a EU wide understanding of an important principle of copyright the originality requirement The CJEU further elaborated upon this in subsequent case law notably Case C 393/09 Bezpe nosťn Softwarov Asociace Joined Cases C 403/08 and C 429/08 Murphy Case C 145/10 Painer Case C 604/10 Football Dataco and Case C 406/10 SAS The meaning of originality adopted by the CJEU as a EU wide standard is akin to that envisaged in continental Member States copyright laws thus differing from the loose notion of originality under UK law As such an examination as to the implications of CJEU harmonising jurisprudence in this Member State shall be undertaken with regard to the scope of copyright protection and subject matter categorisation Overall this

contribution wishes to assess how and to what extent CJEU case law has resulted in de facto EU copyright harmonisation In addition it will attempt to foresee the fate of EU copyright in light of copyright reform projects which are currently being discussed in political and academic circles both in the US and Europe **Information Technology Law** Andrew Murray,2019 Information Technology Law examines how law interacts with our actions in cyberspace and other elements of the information society It considers the relationship between the legal system and the information society covers issues such as governance free expression and crime and looks forward to future challenges **Intellectual Property Protection for AI-generated Creations** Ana Ramalho,2021-12-29 This book explores the intersection between artificial intelligence and two intellectual property rights copyright and patents The increasing use of artificial intelligence for generating creative and innovative output has an impact on copyright and patent laws around the world The book aims to map and analyse that impact The author considers how artificial intelligence systems may aid or in some cases substitute for human creators and inventors in the creative process It is from this angle that the copyright and patent regimes in four jurisdictions Europe the United States Australia and Japan are investigated in depth The author describes how these jurisdictions look at works and inventions generated through a process where artificial intelligence is present or prevalent and examines how copyright and patent regimes should adapt to the reality of artificially intelligent creators and inventors As the use of artificial intelligence to generate creative and innovative products becomes more common this book will be a valuable resource to researchers academics and policy makers alike **European Sports Law** Lars Halgreen,2004 **Against the Grain** ,1996

*Research Handbook on the Future of EU Copyright* Estelle Derclaye,2009-01-01 an important contribution to the study of EU copyright law It provides a good overview of different aspects of copyright law in the European Union and comprises a prevailing guide which undoubtedly will be of great use to both academics and practitioners Ghufran Sukkaryeh European Intellectual Property Review Estelle Derclaye s book is indeed a Handbook on EU copyright law since practically every aspect of copyright law is examined through the lens of EU law by foremost European specialists But it goes further than providing an understanding of what has been and ought to be happening in EU copyright law each chapter can touch a raw nerve in the copyright law of any country in the world Rarely has it been so obvious that EU copyright law can be considered a laboratory for copyright law in general Ysolde Gendreau Universit de Montr al Canada It has been over fifteen years since the EU started harmonising copyright law This original Handbook takes stock and questions what the future of EU copyright should be What went wrong with the harmonisation *acquis* What did the directives do well Should copyright be further harmonised Each of the 25 recognised copyright experts from different European countries gives a critical account of the EU harmonisation carried out on several aspects of copyright law subject matter originality duration rights defences etc and asks whether further harmonisation is desirable or not This way the Handbook not only gives guidance to European institutions as to what remains to be done or needs to be remedied but is also the first overall picture of current and future EU copyright

law This Handbook will be of great interest to academics and intellectual property lawyers as well as general commercial lawyers across Europe because it reviews European directives in the field of copyright and also the relationships between copyright and other laws Policymakers will also find much to interest them in the discussions regarding the future of EU copyright law and the proposed amendments to the existing legal framework

### **The Routledge Handbook of EU**

**Copyright Law** Eleonora Rosati,2021-04-21 The Routledge Handbook of EU Copyright Law provides a definitive survey of copyright harmonization in the European Union capturing the essential and relevant issues of this relatively recent phenomenon Over the past few years two themes have emerged on the one hand copyright policy and legislative initiatives have intensified on the other hand the large number of references to the Court of Justice of the European Union has substantially shaped the EU copyright framework and with it the copyright framework of individual EU Member States This handbook is a detailed reference source of original contributions which analyze and critically evaluate the state of EU copyright law with a view to detecting the key trends and patterns in the evolution of EU copyright weighing the benefits and disadvantages of such evolution It covers a broad range of topics through clusters focused on the history and approaches to EU copyright harmonization harmonization in the areas of exclusive rights exceptions and limitations and enforcement copyright policy and legacy of harmonization With contributions from a selection of highly regarded and leading scholars in this field the Routledge Handbook on European Copyright Law is an essential resource for students and scholars who are interested in the field of copyright law

### *EU Copyright Law Harmonisation* Estelle Derclaye,Gilles Stupfler,2025-09-18

Provides the first comprehensive comparative and empirical analysis of the state of harmonisation in EU copyright law in the 27 Member States and the UK at the level of national courts

### **Copyright and the Court of Justice of the European**

**Union** Eleonora Rosati,2023 This new edition of Copyright and the Court of Justice of the European Union remains the leading reference on EU copyright case law Fully updated with the latest decisions of the Court of Justice CJEU it fully describes the role and actions of the Court in the copyright field and its resulting legacy

### *EU Copyright Law* Irini Stamatoudi,Paul Torremans,2014-05-30

EU Copyright Law is a seminal commentary work from a team of leading experts in the field combining aspects of theory and practice and placing copyright in perspective It will be an indispensable reference tool for academics researchers practitioner

### **The Originality Standard of Photographic Works in EU Copyright Law**

Marián Jankovič,2025-01-24 Originality Standard of Photographic Works in EU Copyright Law By Mari n Jankovic Marian Jankovic The omnipresence of photographic products in almost everyone s lives is considered natural almost unavoidable If one makes the connection of the said omnipresence with the constant development of new technologies the increase of interactions with possible legal consequences involving photographic products as a potential subject matter appropriable by copyright might be expected to be inevitable Such outlined situation brings the necessity to sufficiently legally define and clarify under which circumstances in other words upon the fulfilment of what conditions and criteria can a photographic

product be considered the subject matter of copyright This shall be done in order to assure the legal certainty of both the photographers as well as the potential users of their photographic products The medium of photography especially its production process necessitating involvement of technological equipment is not as easily graspable and comprehensible as other traditional works of art This ambiguity has been also carried over into the legal area which resulted in various differentiating treatments of photographic products within the national copyright frameworks of Member States of the European Union Chosen for the highlighting of the already mentioned various differentiating treatments and their particularities copyright frameworks of Germany France Czech and Slovak republics have been chosen as basis for the conducted research The European Union has tried to remedy the outlined state of affairs by way of the so called harmonisation As part of its first phase a legislative framework in a form of Directives has been created Within the said framework a condition for appropriability of photographic products by copyright has been formulated the so called originality standard of author s own intellectual creation As part of its second phase the said originality standard formulated via the previously created legislative framework has been applied in practice and enhanced by the Court of Justice of the European Union with the addition of a personal touch As a result of both phases combined a solely applicable requirement for appropriation of photographic products by copyright within the copyright framework of the European Union has been formulated The figurative trigger for the initiation of the said second phase a legal dispute revolving around the use of an official portrait photographic product depicting a pupil without the photographer s consent has been chosen by the Court of Justice of the European Union Whether the outlined state of affairs consisting of various national differentiating treatments of photographic products has been remedied indeed will be demonstrated on the assessment of the current position of photographic products after the completion of both harmonisation phases within the four selected national copyright frameworks In particular the applicability of the harmonised originality standard as well as the applicability of the said national particularities will be assessed

*The Competence of the European Union in Copyright Lawmaking* Ana Ramalho,2016-03-08 This book inquires into the competence of the EU to legislate in the field of copyright and uses content analysis techniques to demonstrate the existence of a normative gap in copyright lawmaking To address that gap it proposes the creation of benchmarks of legislative activity reasoning that EU secondary legislation such as directives and regulations should be based on higher sources of law It investigates two such possible sources the activity of the EU Court of Justice in the pre legislative era and the EU treaties From these sources the author establishes concrete benchmarks of legislative activity which she then tests by applying them to current EU copyright legislation This provides examples of good and bad practices in copyright lawmaking and also shows how the benchmarks could be implemented in copyright legislation Finally the author offers some recommendations in this regard

*Exceptions in EU Copyright Law* Tito Rendas,2021-02-10 Information Law Series Volume 45 In a copyright system characterised by broad and long lasting exclusive rights exceptions

provide a vital counterweight especially in times of rampant technological change The EU's controversial InfoSoc Directive now two decades old lists exceptions in which an unauthorised user will not have infringed the rightholder's copyright To reform or not to reform this legal framework that is the question considered in great depth in this book providing detailed theoretical and normative analysis of the Directive the national and CJEU case law arising from it and meticulously thought out proposals for change By breaking down the concepts of flexibility and legal certainty into a set of policy objectives and assessment criteria the author thoroughly examines such core aspects of the framework as the following the justifications for exceptions e.g. safeguarding the fundamental rights of users the regimes established in legislation and case law for key exceptions the need to promote technological development the importance of avoiding re fragmentation caused by uncoordinated national legislative responses to technological changes the legal status of digital technologies that rely on unauthorised uses of copyright protected works and the pros and cons of importing a fair use standard modelled after that of the United States In an invaluable concluding chapter the author puts forward a set of reform proposals articulating their advantages and responding to potential objections In doing so the chapter also identifies syntheses and critically examines the various proposals that have been advanced in the academic literature In its decisive contribution to the debate around the InfoSoc Directive and the rules that guide its implementation interpretation and application this book isolates the contentious structural features of the framework and examines them in a critical fashion The author's systematised review of scholarly and policymaking proposals for increasing flexibility and legal certainty in EU copyright law will be welcomed by practitioners in intellectual property law and other areas of economic law as well as by interested policymakers and scholars

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