



European Intellectual Property Review

2014 Volume 36 Issue 5
ISSN: 0142-0461

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Copyright for Art's Sake? 275

This opinion piece addresses recent and proposed changes to UK laws affecting designs, particularly where copyright and design laws overlap. It demonstrates how arguments for and against the changes have very different underlying assumptions about the purpose of copyright law and its relationship with broader cultural values. Ultimately, it suggests that the legislature may choose to reflect differing cultural values, as well as economic realities, in the laws of copyright and designs, but emphasises the necessity for clarity and transparency in related debates.

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Given that the safeguarding of intellectual property plays an essential role in rewarding creative and inventive efforts, it is necessary to guarantee the effectiveness of the protection also in the case of distance sales contracts. At the same time, significant legal differences among Member States and uncertainties in protection may be an obstacle to the free movement of services and products incorporating, or based on, intellectual property. This article focuses on the advisability to eliminate those differences of discipline that may hinder the development of the single European market, in order to maximise the opportunities offered by electronic commerce and by the digital sector in general.

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On January 23, 2014, the Court of Justice of the European Union handed down its judgment in *Nintendo v PC Box and 9Net*. In a decision that will not be welcomed by videogames and consoles creators and producers, the Court of Justice found that copyright holders are not protected by IP law against acts of circumvention of disproportionate technological measures.

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The EU General Court has confirmed that Steiff, the German soft toy manufacturer, was not entitled to Community trade marks to protect the attachment of a button, or a label attached by means of a button, to the ear of a soft toy because the attachment lacked distinctive character. Finding that there was nothing exceptional about the attachment, the General Court held that the average consumer, who would not normally identify commercial origin on the basis of the appearance of goods, would see the attachment, which was inseparable from the toy itself, as merely decorative.

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