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PMC provides guidance on copyright to replacement parts of design furniture and repair limitations

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Introduction

In this case,⁽¹⁾ the Patent and Market Court (PMC) dealt with the unusual issue of copyright infringement of an individual element of a piece of furniture – namely, a replaceable pad for the famous designer armchair "Jetsson", which was designed by the renowned Swedish designer Bruno Mathsson.

In short, the PMC held that the pad, as a standalone element, enjoyed copyright protection and that the manufacture, marketing and sales of replacement pads to the Jetsson armchair constituted copyright infringement.

Moreover, the case dealt with the delicate balance between copyright and protection of private use, which is subject to certain limitations to copyright under the Swedish Copyright Act. In this part, the PMC referred to the fact that the Swedish private copying exception does not include a right to engage third parties to make copies of applied art and thus found for the rights holder.

The judgment has led to lively discussions in the Swedish copyright community.

Facts

In 2021, an upholstering business specialised in the renovation of designer furniture, including the manufacture and sale of replacement pads to armchairs, caught the attention of the exclusive licensee of the rights to the Jetsson armchair. The licensee brought infringement proceedings against the upholsterer, arguing that the manufacture, marketing and sales of the pads infringed its copyright to the original Jetsson pad.

While the defendant did not question that the Jetsson chair was protected by copyright, he disputed the action, arguing that the standalone Jetsson pad was not protected by copyright. Moreover, the action was also contested on the ground that the replacement pads were not covered by the Jetsson chair's scope of protection, and that the provision of new pads to an owner of a Jetsson armchair should be equated to the right for an owner of an armchair to have it repaired or reupholstered due to the exhaustion of rights to the physical copy.

Decision

In the absence of testimony from the deceased creator of the chair, the PMC relied heavily on the claimant's expert witness and held that the creator had made sufficient artistic considerations in his design of the Jetsson pad. Therefore, the PMC found that the pad itself enjoyed copyright protection. Further, the PMC held that the minor differences between the original pad and the replacement pads entailed that the replacement pads were encompassed by the scope of protection of the original pad.

As regards the defendant's objection that the manufacture and provision of new pads should be equated to such repairing or reupholstering to which the owner of an armchair is entitled, the PMC referred to the statutory prohibition to engage third parties when making copies of applied art and concluded that it prohibited the defendant's production and provision of new pads to the customer. The Court thus found for the claimant and issued an injunction.

The judgment was not appealed and is thus final.

Comment

The judgment in this case is noteworthy for several reasons.

First, it is groundbreaking in that the PMC awarded copyright protection to an individual element of a piece of furniture, even in the absence of a testimony by the creator. The PMC's finding in this respect can be added to several rights-holder-friendly judgments in cases concerning applied art from the Swedish IP courts in the past couple of years. While it may not be wise to read too much into the PMC's finding given the rather special nature of the furniture, it will be interesting to see whether the judgment will generate a new wave of legal actions based on claimed copyright to individual elements of applied art and, if so, whether the IP courts will continue their recent trend.

As regards the defence that the defendant's production and provision of new pads to Jetsson armchairs should be equated to the customer's right to repair or reupholster its own armchair, it is unfortunate that the judgment did not include an expanded and sophisticated discussion on the dividing line between copyright and the limitations on private use, and that the judgment was not appealed. First, it is unsatisfactory that the statute in the Swedish Copyright Act that limits copyright to applied art to the benefit of an owner's right to repair such products was not included in the PMC's reasoning. Second, it is unfortunate that the PMC's reference to the limitation to the private copying exception which prohibits the engagement of third parties to make copies of applied art did not include

an analysis as to whether this limitation is applicable to merely a part of such product, albeit a copyright protected part, especially considering the right of amendment vested with an owner of applied art under the Swedish Copyright Act.

While the judgment is merely a first-instance decision, the PMC's conclusion in this part is likely to generate uncertainty in the Swedish furniture upholstering community. Assuming that the demand for furniture upholstering and similar repair services is unlikely to decrease in the current era of environmental awareness and recession, similar cases should be expected to follow and will hopefully lead to clarifying precedents.

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Endnotes

(1) PMC; PMT 16530-21.