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Musical work in phonographic production - copyright considerations

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SUMMARY

The dissertation undertook an analysis of the legal issues related to the musical work, which functions both as an object of copyright protection and as an economic good resulting from the complex process of phonographic production. The primary aim of the thesis was a systemic examination of the stages of the creation of a musical work in the context of phonographic production and the legal relations between the entities involved in this process. The issues were directed at establishing the legal nature of the final result of phonographic production, identifying the objects of protection arising at the various stages of production and indicating possible solutions to problems related to the exploitation of copyright and related rights.

The dissertation is part of a discourse that has so far focused mainly on the musical work as an object of the composer's individual creativity. The dissertation attempts to present the musical work in an economic and production context, taking into account various creative, technical and organisational contributions. A dogmatic-legal and theoretical-legal method was adopted, enriched by the analysis of practical examples and foreign solutions, in particular from France and the United Kingdom.

The dissertation is divided into five main chapters, each of which relates to the successive stages of phonographic production. This structure is complemented by an introduction, which presents the rationale for the choice of topic, the purpose of the research and the research questions, as well as the research methods used.

Chapter One: The musical work - general characteristics.

This chapter characterises the musical work as an aesthetic, intentional entity and, at the same time, as an economic good. Philosophical theories, including Roman Ingarden's concept, and musicological analyses that have made it possible to distinguish the layers of the musical work are recalled. The specifics of the phonographic industry are also discussed, taking into account its multifaceted nature and the role of actors such as composers, performers, producers and publishers.

Chapter Two: The creation of a musical work (the first stage of phonographic production).

The second chapter is devoted to the stage of creation of a musical work as a subject of copyright. The principles of legal protection of works both created by a single author and co-authored works are discussed. In the context of co-authorship, the issue of the management of the author's joint right and shares in this right was discussed. The issue of agreements between authors, including agreements for the co-authorship of a work and the combination of works for joint distribution, is analysed. Attention was also drawn to the importance of moral rights and the impact of their exercise on the exploitation of a musical work.

Chapter Three: The artistic performance and its fixation (the second stage of phonographic production).

The third chapter dealt with the artistic performance of a musical work and the phonogram, which were recognised as separate objects of legal protection. The roles of participants in recording sessions, including producers, directors and sound engineers, were analysed, as well as how they qualify as subjects of related rights. The nature of contracts concluded with performers and producers of phonograms and the legal consequences arising from them are also discussed.

Chapter Four: Post-production of a musical work (the third stage of phonographic production).

Chapter Four is devoted to an analysis of the post-production stage, which includes activities such as mixing and mastering of recordings. Particular attention was paid to the creative nature of the sound engineer's activities, which can lead to the creation of derivative works that require the consent of the original author. The impact of these activities on the musical work, the artistic performance and the phonogram as objects of legal protection was also examined.

Chapter Five: Reproduction and distribution of a phonographic work (the fourth stage of phonographic production).

The final chapter dealt with the reproduction and distribution of the phonographic product. Phonographic contracts, such as 360° contracts, and the rules governing the exploitation of musical works by record labels were analysed. It also discusses issues related to the digital distribution of music and the role of producers in the marketing of works.

The final conclusions point to the need to redefine the final outcome of the phonographic production process. It was concluded that the final outcome of the phonographic production process should not be equated with a musical work. The musical work is part of a more complex intangible good, which has been referred to as a "phonographic work." This new concept takes into account the layered and complex relationships that arise during the course of music production, encompassing composition, performance, phonogram and creative post-production contributions.

The proposal to separate the 'phonographic work' as a separate category in copyright law is an attempt to adapt the regulations to the specifics of the contemporary music market. The need for regulations analogous to those for audiovisual works, which would take into account the multiplicity of creative contributions and the specificity of collective processes, was also pointed out.

The research carried out led to the conclusion that carefully structured contracts regulating the use of economic rights and the exercise of moral rights of actors imprinted on the final outcome of a phonographic production are crucial for the protection of the rights of participants in the production process.