

Revision of the Swiss Copyright Law : the school, the video-cassette and the village baker

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...and the patron or Maecenas as the noble benefactor.

Our picture: Karl Geiser (1898-1957). «David», about 1937. Bronze. Property of the Swiss Confederation. (Archive photos)

today deny that assistance from the Federation has in connection with measures for the preservation of ancient monuments and regional tradition made a decisive contribution towards the protection of our national cultural heritage and thereby towards the defence and conservation of an important part of our national identity. In this connection, as also in relation to promotion of the film industry, the Federation has at its disposal explicit constitutional provisions. In respect of other sectors of activity, there is no express assignment of competence: a situation which urgently needs to be corrected, in view of the importance of culture and its promotion in a modern society.

In 1986 a first attempt to secure the inclusion in the constitution of a special article for cultural matters was a failure, as the popular referendum was based on a badly worded "initiative" and also because of the

Revision of the Swiss Copyright Law

The School, the Video-Cassette and the Village Baker

One special aspect of the problem of financing cultural activities is that of copyright legislation (i.e., a law to safeguard the interests of the originators of intellectual works) in connection with the revision of which the Federal Office for Intellectual Property has produced a draft which has given rise to much discussion.

The present law dates back to 1922 – thus to a time when nobody could dream of the possibilities of duplication which modern technology would bring in the form of photocopying machines and tape-recorders for audio and video cassettes. In many European countries, it has long since been accepted that fees should be payable in respect of the mass duplication (by means of photocopying apparatus and re-recording on to blank tapes) of works still in copyright, i.e., not in the public domain, and their loaning or renting (e.g., through libraries). The fees collected are shared out by special organisations, in accordance with a pre-determined "key", among the authors, composers, and sometimes the interpreters.

Our Swiss legislation on copyright is completely out-of-date and lacks such safeguards, and even the above-mentioned draft for a new law provides on the contrary for measures in favour of consumers and exploiters for what is in effect a far-reaching expropriation of the property of authors and composers, who are thereby deprived of reasonable remuneration for the use of the works that they have created, and have to depend on meagre hand-outs, and the very occasional award of a prize. We are gradually turning into a nation whose members misuse third party intellectual property as though it were their own – without scruples and often without even realising the unfairness of their actions.

The following account of the experience of one person suffering from this situation comes from film-maker Fredi M. Murer and illustrates the practice of quiescent expropriation which is going on every day.

Some time ago, near to the school, there was a baker who lived mainly by selling rolls of bread to the school children during their "breaks". One day, a teacher at the school invited me to visit the village in order to take part in a discussion about one of my films. I accepted the invitation, and made the two-hour journey by train and post-office bus to the school near the bakery. At that time, I undertook such visits quite frequently and without payment of a fee. The schools had to reimburse my expenses, and at the end of the year, a percentage share in the rentals came to me from the film distributors – not a fortune but a few thousand francs to make a small contribution towards my cultural activities and as the author of the films.

The teacher told me very proudly, before the discussion began, that he had transferred my film by re-recording it on video when it was shown on television. I then placed myself in front of the 30-pupil school class and the TV receiver, which was standing on an expensive looking video recorder. After I had delivered my talk, the teacher thanked me on behalf of the school class and the school management. "How fortunate it is", he said, "that we have video nowadays", as his budget made no provision for film rental or reimbursement of expenses, let alone fees for the "visiting professors"! But "for an artist, it is an honour for him to have his works shown, and should compensate him for making the journey".

I recognised at once that this teacher must be a socialist in disguise, and I was enthused by his idealistic ideas. So before I invited myself to a meal, and started on my journey home, I encouraged his pupils to follow their teacher's example, and to steal their rolls for their "breaks" from the bakery, in honour of the baker's artistic achievement. The children found the suggestion excellent, and so did the baker, who then crossed the street to the butcher's shop, where he in a similar manner paid tribute to the art of sausage-making. As his turnover of rolls for the breaks increased so much, the baker soon ran out of flour, and when he attempted to obtain supply of this in the same way as adopted by the teacher to get a copy of Murer's film, he got caught.

From the remand jail where he was awaiting trial, the baker sent me a postcard worded in the following sorrowful manner: "When school-children steal rolls from the baker to eat during the 'break', or their teachers show them, for educational purposes, films that have been transferred on to video cassettes when they were shown on television, these seem to be the same sort of offence, but I suppose the first one is the less serious one".

To this wise insight of the master baker, I have, as a "master film baker" nothing to add.