

New technologies in content production and distribution – copyright and competition law perspectives

Final report, April 2016

Funding period

The funding was originally granted for years 2012–2014, but permission to use the funds in 2014 and 2015 was obtained on the basis of the project leader's two maternity leaves during the funded period.

Researchers and use of funding

LL.D Juha Vesala and LL.D Katri Havu worked in the project as postdoctoral researchers. LL.D Juha Vesala has received salary from these funds for approximately 8 months during years 2014–2015, LL.D Katri Havu for 4 months in spring 2014. Havu has concentrated on competition, contract and private law aspects relating to the theme of the project and Vesala issues on competition law perspectives on licensing IPR's; licensing practices of internet platforms and intermediaries from competition law perspective, and copyright issues concerning digital distribution. LL.M Anniina Huttunen did not receive salary from the project, but undertook research on robotics and copyright. Project leader Taina Pihlajarinne has researched copyright issues in digital environment. She has received salary from working in the project for a period of few months – some of which full-time and some of which part-time. She has also worked as professor of copyright law since 1.1.2013.

Outputs

Publications

During the project (2012–2015) the researchers published various articles and books. The publications falling within the theme of the project include the following.

Havu, Katri: Unfair commercial contracts and online content distribution: insights into problems, regulation and potential of European harmonization, *Tidskrift utgiven av Juridiska föreningen i Finland* 2014 150, 6

Havu, Katri – Vesala, Juha: Competition law implications of invalidation of intellectual property rights to licensing agreements: issues raised by Genentech (C-567/14): Request for a preliminary ruling from the Cour d'appel de Paris (France) lodged on 9 December 2014 — Genentech Inc. (C-567/14), *Global Competition Litigation Review* 2015 8, 4

Havu, Katri: The Finnish Competition and Consumer Authority and the Finnish Ministry of Employment and the Economy jointly explore potential need to develop national law regarding digital business and commerce, *e-Competitions Bulletin, Concurrences*, August 2015, Art. N° 74423

Havu, Katri: The Finnish Competition and Consumer Authority clears a merger in the publishing and book retail market (Bonnier / Stockmann), 24 September 2015, e-Competitions Bulletin, Concurrences, December 2015, Art. N° 76941

Huttunen, Anniina – Ronkainen, Anna: Translation technology and copyright. Nordisk Immateriellt Rättskydd 3/2012

Huttunen, Anniina – Tanskanen, Henri – von Willebrand Martin: Free and Open Source Software (FOSS) licenses and other Alternative Licenses under Finnish Law – Hybrid Contracts including both Copyright and Contract-Related Elements. In (ed.): Metzger, Axel: Free and Open Source Software (FOSS) licenses and other Alternative License Models. A Comparative Analysis. Springer 2016

Pihlajarinne, Taina: Internetvälittäjä ja tekijänoikeuden loukkaus. Lakimiesliiton kustannus, Helsinki 2012

Pihlajarinne, Taina: Internetvälittäjän tekijänoikeusloukkausten torjuntavelvoitteet – perusoikeuspunninnan näkökulma. Viestintäoikeuden vuosikirja 2012, published in 2013

Pihlajarinne, Taina: Setting the Limits for the Implied License in Copyright and Linking Discourse – the European Perspective. International Review of Intellectual Property and Competition Law 9/2012.

Pihlajarinne, Taina: National Set of Rules for Commercial Linking – the Finnish Discussion. Nordisk Immateriellt Rättskydd 5/2012

Pihlajarinne, Taina: Immateriaalioikeuden yleiset opit ja digitalisoituminen – vertailussa tekijänoikeus ja tavaramerkkioikeus. Lakimies 3/2012.

Pihlajarinne, Taina: Teoskappaleen valmistus – tekijänoikeuden yleisten oppien koetinkivi? Lakimies 7-8/2013

Pihlajarinne, Taina – Havu, Katri – Vesala, Juha: KKO 2015:17 – Tekijänoikeudellinen hyvitysmaksu, EU-oikeuden vaikutus kotimaisen oikeuden soveltamisessa ja osakeyhtiöoikeudellinen samastaminen. Defensor legis, 2015, 3

Vesala, Juha: Buyer power in content distribution: Unfair conditions imposed on content creators as abuse of dominant position? Governing innovation and expression: new regimes, strategies and techniques (Katja Weckström, ed.), Turku 2013

Vesala, Juha: Challenge of Promoting Innovation in Antitrust Law: Current Intellectual Property Issues as Examples. Helsinki: IPR University center

Vesala, Juha: Accommodating Intellectual Property in Competition Policy: Approaches for Advancing the Shared Goal of Innovation, Coherence and Fragmentation in European Private Law, (Letto-Vanamo, Pia & Smits, Jan, ed.). München: Sellier European Law Publishers

Other outputs and forthcoming publications

In addition, the researchers gave several presentations in seminars and conferences in Finland and abroad.

During the funding periods, the researcher also undertook research that is currently ongoing. Publications that are forthcoming include the following.

Havu's article "Digital Single Market and E-commerce – Remarks from the Standpoint of Private Enforcement of Competition Law" is under review at an international journal. Currently, Havu is finalizing two international articles: "Digital Single Market and E-commerce competition issues: consumer harm and private law remedies" and "Collusion and online platform: Comment on Case C-74/14". Pihlajarinne's article "Should we Bury the Concept of Reproduction – Flexibilising Copyright through Trademark Law Convergence?" is under review at an international journal. Vesala is finalizing an international article on competition law issues of geoblocking in copyright licensing.