Legal Rights of Copyright Trolls in Directive 2004/48/EC: Balance between the Right to Privacy and Copyright

Judgment of the Court of Justice of the European Union of 17 June 2021, C-597/19[1]

1. **Posting segments of a media file containing a protected work on the end device of a user of a peer-to-peer network (such as Bit-Torrent), although these downloaded segments are usable as such only after reaching a certain minimum quantity specified in percentage, is making public in accordance with Directive 2001/29.**
2. **Copyright entities have the right to information that allows the identification of peer-to-peer network clients in order to effectively bring a lawsuit against these entities allegedly infringing copyright.**
3. **The status of a copyright troll, i.e. an entity that is limited to pursuing claims for damages from entities that, in its opinion, infringe these rights, does not affect the possibility of using the measures and procedures provided for in Directive 2004/48. However, the court must examine whether the request is an abuse of law, in particular whether it is justified and proportionate.**

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Commentary

The dynamic development of the Internet has led to massive and widespread violations of two fundamental rights: the right to privacy and the right to intellectual property. Sharing cultural goods via the Internet is extremely simple, does not generate costs and is anonymous.[2] Anonymity influenced the impunity of the perpetrators of infringements

[1] ECLI:EU:C:2021:492.

[2] R. Cisek, J. Jezioro, A. Wiebie, *Dobra i usługi informacyjne w obrocie gospodarczym*, Warszawa 2005, p. 94.

and the habit of free access to works. Today the possibilities of identifying potential perpetrators of infringements are currently at a high level. However, the disclosure of Internet users' data to copyright holders requires registering and processing their personal data. This raises concerns about the violation of the right to privacy. In this context, there is a conflict between the right to privacy and the right to protect intellectual property. Balancing these two rights is not an easy task, because it takes place in a dynamic environment where the tools and forms of their violations change. Statutory law does not always keep up with these changes. The judiciary, including the extensive case law of the Court of Justice of the European Union (hereinafter: the CJEU, the Court) plays a key role in determining the relationship between individual rights and freedoms on the Internet.[3] The judgment of the CJEU issued in mid-2021 in the case of Mircom International Content Management & Consulting Limited (hereinafter: Mircom) against Telenet BVBA (hereinafter: Telenet) (C 597/19)[4] is another important element of balancing intellectual property rights with the right to privacy and determining the powers of copyright trolls.

A short description of the facts

Mircom is a Cyprus-registered company that owns the rights to a number of films. These videos were shared without the company's consent on a peer-to-peer network using BitTorrent. Microm brought an action against the Belgian company Telenet, demanding that it provide information allowing the identification of its customers. Mircom sought damages from these customers as alleged infringers.

Against this background, two questions for a preliminary ruling raise three important issues. The first concerns the assessment of whether public disclosure, within the meaning of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonization of certain aspects of copyright and related rights in the information society (hereinafter Directive 2001/29/ EC[5]), by posting segments of a media file containing a protected work on the end device of a user of a peer-to-peer network can be considered as copyright infringement, although these segments are usable as such only after reaching a certain percentage minimum quantity and the configuration of the BitTorrent file-sharing software provides them automatically.

The second question referred for a preliminary ruling concerns the status of Micron. That undertaking does not actually exploit the rights assigned by the makers of the films in question, but merely seeks damages from the alleged infringers. The business

[3] E.g. Judgment of the CJEU of 14 June 2017, C-610/15, *Stichting Brein v. Ziggo BV and XS4ALL Internet BV*, EU:C:2017:456.

[4] Judgment of the CJEU of 17 June 2021, C-597/19, *Mircom International Content Management & Consulting (M.I.C.M.) Limited v. Telenet BVBA*, ECLI:EU:C:2021:492.

[5] Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, OJ L 167, 22.6.2001, P. 0010–0019.

model adopted by the company resembles the definition of a "copyright troll."[6] Often, as in the case analyzed, it takes the form of a mass mailing of requests for payment for copyright infringement, both to actual infringers and innocent people, in order to conclude as many settlements as possible. This model depends not on fighting, but on the existence of piracy. Therefore, it is difficult to determine the "detriment" as a result of an infringement of the law defined within the meaning of Art. 13 of Directive 2004/48/EC[7] of the European Parliament and of the Council of 29 April 2004 on the enforcement of intellectual property rights (hereinafter: Directive 2004/48/EC). The question therefore centers on the question of whether copyright trolls can enjoy the same IP enforcement rights as authors or licensees exercising copyright in the normal way.

The third thread concerns the relationship between respect for intellectual property rights and the protection of the right to privacy and personal data, in particular as part of the proportionality assessment of the systematic recording and further processing of IP addresses of users of peer-to-peer networks sharing file segments in light of Art. 6 sec. 1 lit. (f) Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of individuals with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC[8] (hereinafter: GDPR).

Decision of the Tribunal

In the context of the first question, it is important to define the status of segments of the work discussed previously. As the Advocate General points out in his Opinion,[9] segments are not parts of works, but parts of files containing those works, which are used to transmit those works using the BitTorrent protocol. Segments are useless by themselves. However, any user of a peer-to-peer network can easily assemble a primary file from segments available on other users' computers. The user does not have the entire file for a certain period of time, but he/she provides the fragments he/she has, and thus contributes to a situation in which all users participating in the download of a given file ultimately have access to its entirety.

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[6] See also: A. Skibińska, *Trolling prawnoautorski (copyright trolling) a nadużycie prawa podmiotowego*, "Prawo Mediów Elektronicznych" 2017, no. 4, pp. 26–33.

[7] Directive 2004/48/EC of The European Parliament and of The Council of 29 April 2004 on the enforcement of intellectual property rights, OJ L 157, 30.4.2004, pp. 45–86.

[8] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC (General Data Protection Regulation), OJ L 119, 4.5.2016, pp. 1–88.

[9] Para 48–50 Opinion of Advocate General Szpunar delivered on 17 December 2020, C-597/19, *Mircom International Content Management & Consulting (M.I.C.M.) Limited v. Telenet BVBA, with participation: Proximus NV, Scarlet Belgium NV*, ECLI:EU:C:2020:1063.

Directive 2001/29 in Art. 3.1 and 2 grants authors the exclusive right to authorize or prohibit any communication to the public of their works. This article does not deal with the issue of making parts of a work available, nor with the minimum quantity threshold for making works available. Thus, any act by which a user grants, in full knowledge of its consequences, access to works or other subject-matter may constitute an act of communication.[10]

The Court also found that users of programs such as BitTorrent are informed about its features (e.g. in the license agreement or regulations). Therefore, they act with full awareness of their behavior and the consequences it may cause.

According to settled case law, the "audience" should be understood as an indefinite number of potential recipients and addressing them to a fairly wide circle.[11] It is also necessary for the work to be made available using a specific technology, other than those used so far, or for the information of a new public, i.e. one that the copyright or related rightholder had not previously taken into account when allowing the original publication of the work.[12] As regards the classification of peer-to-peer networks, the case-law of the Court to date shows that the management on the Internet and the provision of access to an exchange platform which, by indexing the metadata relating to protected works and providing a search engine, enables the users of that platform to search for those works and to exchange them within the network peer-to-peer, constitutes public sharing within the meaning of Art. 3 sec. 1 of Directive 2001/29.[13] Several factors influence this classification. First, the computers of those users that store the same file constitute a peer-to-peer network in which they play the same role as the role played by servers in the functioning of the WWW. Second, this network is used by a significant number of people. Third, those users are able to access protected works exchanged on that platform at any time and at the same time.[14] Thus, an announcement within a peer-to-peer network concerns an indefinite number of potential recipients and is addressed to a fairly wide circle of recipients. Moreover, since the present case concerns works published without the consent of the rightholders, it must also be considered that there is an announcement to a new public.[15]

In the Court's view, even where a work has previously been published on a website without restrictions preventing it from being downloaded and with the consent of the rightholder, users of peer-to-peer networks play a decisive role in bringing that work

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10 Judgment of the CJEU of 9 March 2021, C-392/19, *VG Bild-Kunst v. Stiftung Preußischer Kulturbesitz*, EU:C:2021:181, para 30.

11 Judgment of the CJEU of 7 August 2018, C-161/17, *Land Nordrhein-Westfalen v. Dirk Renckhoff*, EU:C:2018:634; Judgment of the CJEU of 16 March 2017, C-138/16, *Staatlich genehmigte Gesellschaft der Autoren, Komponisten und Musikverleger registrierte Genossenschaft mbH (AKM) v. Zürs.net Betriebs GmbH*, EU:C:2017:218, point 22; *Stichting Brein v. Ziggo BV and XS4ALL Internet BV*, para 24.

12 *VG Bild-Kunst v. Stiftung Preußischer Kulturbesitz*, para 31, 32.

13 *Stichting Brein v. Ziggo BV and XS4ALL Internet BV*, para 48.

14 Para 37 i 61 Opinion of Advocate General…

15 *Stichting Brein v. Ziggo BV and XS4ALL Internet BV*, para 45.

to the attention of the public to whom the rightholder did not take into account when allowing the original release.[16]

The European Union establishes a high level of protection for rightholders by allowing them to receive appropriate remuneration for the use of their works or other subject matter, in particular where they are made public.[17] A balance must be struck in the digital environment between the interests of rightholders and related rightholders in the protection of their intellectual property, as guaranteed in Art. 17.2 of the Charter of Fundamental Rights[18] (hereinafter referred to as the Charter), and on the other hand, the protection of the interests and fundamental rights of users of protected objects, in particular their freedom of expression and information, guaranteed in Art. 11 of the Charter as well as the general interest.[19] In the Court's view, allowing a notification to be made available by posting it on the internet, without the rightholders being able to invoke the protection provided for by Directive 2001/29, would undermine the fair balance to be maintained on the internet.

In conclusion, in the light of the above considerations, the answer to the first question should be that posting segments of a media file containing a protected work on the end device of a peer-to-peer network user, although these downloaded segments are usable as such only after reaching a certain minimum quantity specified in percentage is public disclosure in accordance with Directive 2001/29.

As regards the second of the issues analyzed, related to the status of Mircom, it is necessary to indicate the circle of entities entitled to use copyright protection. These categories include, first, holders of intellectual property rights, second, all other persons authorized to use those rights, in particular licensees, third, collecting societies recognized as having the right to represent owners of intellectual property rights, and fourth, professional entities specialized in enforcing rights, recognized as having the right to represent owners of intellectual property rights. They must also have a direct interest in defending these rights and the power to bring legal proceedings to the extent permitted and in accordance with the applicable legislation.[20] Mircom does not manage the copyrights or related rights of its contractors, nor does it ensure their professional defense. It is limited only to pursuing claims for damages resulting from violations of these rights. It acts as an assignee, providing the producers of the films in question with a recovery service for damages. The assessment of the standing of the holder of intellectual property rights does not depend on whether the entity actually exercises its intellectual property rights. Nor is the assignment of claims in itself capable of affecting the nature of the rights which have been infringed, namely, in this case, the intellectual property rights of the film producers concerned.[21]

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16 *Land Nordrhein-Westfalen v. Dirk Renckhoff*, para 46, 47.

17 According to recitals 4, 9 and 10 of Directive 2001/29.

18 Charter of Fundamental Rights of The European Union, OJ C 326, 26.10.2012, pp. 391–407.

19 See: *VG Bild-Kunst v. Stiftung Preußischer Kulturbesitz*, para 54.

20 See: Judgment of the CJEU of 7 August 2018, C521/17, *Coöperatieve Vereniging SNB-REACT U.A. v. Deepak Mehta*, EU:C:2018:639, para 39.

21 Judgment of the CJEU of 21 May 2015, C352/13, *Cartel Damage Claims Hydrogen Peroxide SA (CDC) v. Akzo Nobel NV and others*, EU:C:2015:335, para 35, 36.

Article 8 of Directive 2004/48 expresses the intellectual property right's right to information about the origin and distribution networks of goods or services infringing an intellectual property right by the infringer or any other person. In this way, it ensures the effective exercise of intellectual property rights by enabling the identification of the entity infringing this right and taking the necessary steps to protect this right.[22] The request for information should be justified and proportionate. The condition for obtaining information is a scale of infringements defined as commercial. The entity obliged to provide the information does not have to be the alleged infringer. It is enough that these services are used in activities that violate the law. Therefore, Mircom has the right to information allowing the identification of its clients precisely for the purpose of effectively bringing a lawsuit against these entities allegedly infringing copyright.

Summing up the findings so far regarding the second of the issues discussed, the Court states that the status of a copyright troll, i.e. an entity that is limited to pursuing claims for damages from entities that, in its opinion, infringe these rights, does not affect the possibility of using the measures and procedures provided for in Directive 2004/48. However, the court must examine whether the request is an abuse of law, in particular whether it is justified and proportionate.

Another of the analyzed issues is that of balancing between, on the one hand, intellectual property law and, on the other hand, the protection of privacy and personal data, in particular in terms of proportionality.

The Court's analysis focuses in the first stage on determining the lawfulness of the processing and sharing of personal data. In the present case, the intellectual property rightholder (or a third party authorized by him) systematically registered the IP addresses of peer-to-peer network users whose Internet connections were allegedly used for activities infringing intellectual property rights. He then requested that the Internet provider Telenet disclose the data (names and postal addresses) of those users in order to bring an action before a civil court seeking compensation for the damage allegedly caused by those users. According to the settled case-law of the CJEU, a dynamic IP address registered by an online media service provider when a person browses a website that this provider makes available to the public constitutes personal data in relation to that provider within the meaning of Art. 4 point 1 GDPR. The condition is that he has the legal means enabling him to identify the data subject, thanks to additional information available to the Internet access provider.[23] IP addresses are therefore personal data in this case, and the recording of these addresses for the purpose of their subsequent use in legal proceedings constitutes processing within the meaning of Art. 4 point 2 GDPR. Processing personal data, in accordance with Art. 6 sec. 1, first subparagraph, point a-f GDPR, is lawful if it is necessary for the purposes of

[22] Judgment of the CJEU of 9 July 2020, C264/19, *Constantin Film Verleih GmbH v. YouTube LLC and Google Inc.*, EU:C:2020:542, para 35.

[23] Judgment of the CJEU of 19 September 2016, C582/14, *Patrick Breyer v. Bundesrepublik Deutschland*, EU:C:2016:779, para 49.

legitimate interests pursued by the administrator or by a third party. An exception to this rule is where the interests or fundamental rights and freedoms of the data subject take precedence, e.g. when that person is a child. This provision therefore sets out three cumulative conditions for the lawfulness of the processing of personal data: the pursuit of legitimate interests by the data controller or third party; the need to process personal data for the purposes of those legitimate interests; and that the rights and freedoms of the data subject do not take precedence.[24]

The Court indicates that a legitimate interest can be considered the situation of a data controller or a third party acting to obtain personal data relating to a person who allegedly violated their property, in order to sue that person for damages. It should be noted that derogations from the protection of personal data and its limitations should be applied only when it is absolutely necessary,[25] and the identification of the link holder is often possible only on the basis of the IP address and information provided by the Internet access service provider.[26]

According to the Court, identifying the owners of those IP addresses and making their names and postal addresses available to Mircom is consistent with the objective of ensuring a fair balance between the rightholders' right to information and the users' right to the protection of personal data.[27]

Assessment of the CJEU decision

Intellectual property enjoys a high level of protection in the European Union. Today, the Internet is changing the shape of the cultural market and thus threatening existing media industries[28] through the unauthorized copying of intellectual property on the Internet. It is a common phenomenon and of great socio-economic importance.

It is impossible not to agree with the reasoning adopted by the CJEU. Awareness of how peer-to-peer networks work is high and users knowingly download and share songs. Works are thus made available to the public in a mass manner. The injured party should have the right to access the personal data of the infringers in order to protect their rights.

BitTorrent is the largest carrier of unauthorized intellectual property,[29] with 100% of exchanged files being unauthorized, including those that are illegal and threatened

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[24] See: Art. 7 lit. f) Directive 95/46; Judgment of the CJEU of 4 May 2017, C13/16, *Valsts policijas Rīgas reģiona pārvaldes Kārtības policijas pārvalde v. Rīgas pašvaldības SIA "Rīgas satiksme"*, EU:C:2017:336, para 28.

[25] *Valsts policijas Rīgas reģiona pārvaldes Kārtības policijas pārvalde v. Rīgas pašvaldības SIA "Rīgas satiksme"*, para 30.

[26] Para 97 General Advocate Opinion…

[27] See: *Constantin Film Verleih GmbH v. YouTube LLC and Google Inc.*, para 37, 38.

[28] I. Gleisler, *Problem wolności w internecie*, "iNFOTEZY" 2013, vol. 3, no. 1.

[29] See: S. Czetwertynski, *Internet peer production and unauthorized copying of intellectual property via BitTorrent network*, Institute of Economic Research Working Papers, No. 128, Toruń 2015.

with legal sanctions.[30] In addition to BitTorrent, similar activities are carried out by IRC, Napster, Audiogalaxy, Gnutella, Fast Track, Direct Connect, and eDonkey. The judgment of the CJEU means that the use of such programs poses a highly probable risk of copyright infringement for its users and, consequently, financial losses related to the activities of copyright trolls.

Copyright trolling is a relatively new phenomenon that emerged with the development of the Internet.[31] The effectiveness of this financial model is based on the massive use of summons, striving to obtain compensation without court proceedings, and the disproportion of legal competences between network users and professional law firms providing services to copyright holders. Copyright holders use the applicable legal norms instrumentally, often acting on the verge of the abuse of law and intimidation. The green light for sharing users' personal data with such entities will undoubtedly intensify their activities.

However, it is worth questioning whether the current standards of author protection, which were created in the pre-IT revolution world, are really adequate to the current reality. The aim of ensuring a high level of protection is to maintain and develop creativity in the interests of authors, performers, producers, consumers, culture and the economy, as well as the general public.[32] Copyright trolls do not create anything, they do not produce anything, but only prey on the author protection system. On the other hand, authors (as opposed to publishers) are one of the worst paid employee groups. As indicated by Łukasz Maryniak, the informal exploration of works in the digital environment, i.e. not derived from sources created with the consent of the creator, does not automatically translate into losses (lower income) for copyright holders.[33] What is more, the free availability of goods on the Internet contributes to increasing the broadly understood demand for culture.[34] As Sławomir Czetwertyński rightly points out, "copyright trolling is a consequence of opportunistic behavior resulting from the inadequacy of the formal institution of copyright to the prevailing technological order."[35] Users of peer-to-peer networks are also the group that most often reaches for legal sources of access to cultural goods. The main reason why users decide to obtain works from the Internet is the topicality of the content and the availability of new products as well as the size of the available resource.[36] Ensuring appropriate distribution channels (like Netflix) significantly reduces interest in unauthorized exchange via the BitTorrent network.[37]

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30 D. Price, *Sizing the piracy universe*, NetNames (Envisional), 2013, p. 30.

31 J. Radziszewska, *Copyright trolling a prawo cytatu*, "Problemy Prawa Prywatnego Międzynarodowego" 2018, no. 23, p. 123.

32 Recital 9 Directive 2001/29.

33 Ł. Maryniak, *Ustalenie kwoty stosownego wynagrodzenia za naruszenie autorskich praw majątkowych*, Warszawa 2020, p. 12.

34 M. Filiciak, J. Hofmokl, A. Tarkowski, *Obiegi kultury. Społeczna cyrkulacja treści. Raport z badań*, Warszawa 2012, pp. 40–41.

35 S. Czetwertyński, *Oportunizm a prawa autorskie*, "Studia i Prace WNEiZ US" 2016, no. 44(2), p. 59.

36 M. Fliciak, J. Hofmokl, A. Tarkowski, *Obiegi kultury…*

37 S. Czetwertyński, *Oportunizm a prawa autorskie…*, p. 66.

The purpose of fair use[38] is to provide the public with access to culture. The CJEU judgment practically blocks the possibility of peer-to-peer network operation, because despite exercising due diligence, users are unable to determine whether the work they want to use has been legally distributed within this network[39] and whether they will not suffer legal consequences related to such action.

Access to works from legal sources is based primarily on what is offered by the largest phonographic or film concerns that homogenize culture. Distribution via the peer-to-peer network gave Internet users from individual local markets access to content previously targeted only at other national markets.[40] Fair use should not violate the normal use of the work or harm the legitimate interests of the author, i.e. against such moves that may unreasonably prejudice the legitimate interests of the author.[41] Currently, protection systems are used primarily by corporations and copyright trolls, but not by individual creators. The solution adopted by the CJEU is adequate to the current copyright protection system. However, it is worth considering whether this system really fulfills the role for which it was established.

Currently, two opposing directions of the concept of copyright regulation can be observed. The first seeks to foreclose access to resources through measures such as tightening intellectual property regulations or penalizing their abuse. Some doctrines and creators' circles are of the opinion that universal and free access to works will inhibit the development of creativity and the effectiveness of exclusive rights and copyright monopolies. In opposition to it, a "free culture" is developing, which aims, among other things, at the sharing and dissemination of works. In their opinion, threats to the development of culture are realized precisely through the lack of access to it by recipients and other creators.[42] The changes proposed by the advocates of free culture include increasing access to creativity, stimulating creativity by providing protection to creators, not publishing, recording or film companies,[43] or shortening the term of copyright.[44] Business models and strategies of entities producing and distributing information goods should be adapted, which means not a direct fight against unauthorized copying, but an increase in incentives to participate in market transactions.[45] The current legal situation does not satisfy either party. Creators do not

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38 E.g. Art. 23 Ustawa z dnia 4 lutego 1994 r. o prawie autorskim i prawach pokrewnych (tekst jedn.: Dz. U. z 2022 r., poz. 2509); Art. 53 Urheberrechtsgesetz (Gesetz über Urheberrecht und verwandte Schutzrechte) Gesetz vom 09.09.1965 (BGBl. I S. 1273).

39 M. Czerniawski, *Glosa do wyroku TS z dnia 10 kwietnia 2014 r., C-435/12*, LEX/el. 2014.

40 A.A. Janowska, *Umiędzynarodowienie branży fonograficznej* [in:] *Globalizacja współcześnie. Komponenty i cechy charakterystyczne*, eds. R. Malik, A.A. Janowska, R. Wosiek, Warszawa 2018, p. 127.

41 E. Traple, *Komentarz do art. 35 ustawy o prawie autorskim i prawach pokrewnych* [in:] *Prawo autorskie i prawa pokrewne. Komentarz*, eds. J. Barta, R. Markiewicz, Warszawa 2011.

42 I. Gleisler, *Problem wolności w internecie*…

43 K. Dobrzeniecki, *Lex informatica*, Toruń 2008, p. 107.

44 J. Gurczyński, *Wolny internet, wolna kultura*, "Kultura i Wartości" 2013, no. 2(6), p. 81.

45 S. Czetwertyński, *Źródła kryzysu instytucji praw autorskich w społeczeństwie online* [in:] *Nauka, badania i doniesienia naukowe 2018. Nauki humanistyczne i społeczne. Część II*, ed. T. Wysoczański, Świebodzice 2018, p. 56.

feel that they are provided with effective protection, and, on the other hand, network users have blocked access to cultural goods. It is therefore worth considering reforming the copyright protection system and adapting it to the realities of the digital world.

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Summary

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Legal Rights of Copyright Trolls in Directive 2004/48/EC: Balance between the Right to Privacy and Copyright

The gloss refers to the judgment of the CJEU of 17 June 2021 in case C-597/19, *Mircom International Content Management & Consulting Limited v. Telenet BVBA*. This judgment is another important element in balancing the rights to protect intellectual property and the right to

privacy, as well as determining the rights of copyright trolls. The Court set out the conditions for sharing customer data with peer-to-peer networks. According to the author, the green light on sharing personal data of Internet users with copyright trolls will undoubtedly intensify the activities of the latter. Protecting the rights of copyright trolls is contrary to the purpose and axiology of copyright.

Keywords: copyright, access to culture, open culture, copyright trolls, abuse of law, CJEU.

Streszczenie

Ewa Milczarek

Prawa trolli autorskich w dyrektywie 2004/48/WE – równowaga między prawem do prywatności a prawem autorskim

Glosa dotyczy wyroku TSUE z dnia 17 czerwca 2021 r. w sprawie C-597/19, Mircom International Content Management & Consulting Limited przeciwko Telenet BVBA. Wyrok ten stanowi kolejny, istotny element wyważenia praw ochrony własności intelektualnej i prawa do prywatności oraz określenia uprawnień trolli prawnoautorskich. Trybunał określił w nim warunki udostępnienia danych klientów sieci peer-to-peer. Według autorki zielone światło do udostępniania trollom prawnoautorskim danych osobowych użytkowników sieci spowoduje bez wątpienia zintensyfikowanie ich działalności. Ochrona praw trolli prawnoautorskich mija się z celem i aksjologią praw autorskich.

Słowa kluczowe: prawo autorskie, dostęp do kultury, otwarta kultura, trolle prawnoautorskie, nadużycie prawa, TSUE.