

No copyright protection for telephone directories

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In: Diritto civile e commerciale

A recent judgment of High Court of Singapore confirms consolidated Us guidelines in copyright protection for telephone directories.

Feist Publications, Inc., v. Rural Telephone Service Co., 499 U.S. 340 (1991), for example, was one of the first decisions by the Supreme Court of the United States establishing that information alone without a minimum of original creativity cannot be protected by copyright. In the case appealed, Feist had copied information from Rural's telephone listings to include in its own, after Rural had refused to license the information. Rural sued for copyright infringement. The Court ruled that information contained in Rural's phone directory was not copyrightable and that therefore no infringement existed.

Twentyfive years after, in Singapore was stated that Telephone directories cannot have copyright protection. **There is no copyright in the individual listings as "they are essentially facts, and there cannot be copyright in facts". "These are facts which no one can claim copyright ownership over; they are entitled to be used by everyone".**

THE CASE:

It is what was recently decided by the High Court of Republic of Singapore in the case **Global Yellow Pages Ltd v. Promedia Directories Pte Ltd**

([2016] SGHC 9; Suit No 913 of 2009, Justice George Wei) .

Global Yellow Pages Ltd (the plaintiff) had alleged that Promedia Directories Pte Ltd. (the defendant), which publishes the Green Book, had copied from four of its directories from 2003 to 2009. The directories are three printed ones - the "Business Listings" (a white pages directory), the "Yellow Pages Business" and the "Yellow Pages Consumer" (which were classified yellow pages directories), and the online "Internet Yellow Pages". The listings in the "Business Listings" were arranged in alphabetical order with no classification or categorisation. The listings in the "Yellow Pages" and online directories were arranged in alphabetical order within classifications or categories. All the directories also contained "seeds", which were dummy listings introduced to detect copying.

The defendant has contended that telephone directories, being fact-based, will inevitably be similar in content and

added that it had its own database of companies and businesses, which was regularly updated from different sources; so copyright does not subsist in the plaintiff's directories, the enhanced data or the seeds, either in whole or in part. The compilations do not amount to intellectual creations because the selection and arrangement is "commonplace and ... a matter of course"; it is "mechanical" and "not done by human authors but computers"; furthermore the plaintiff's online directory was "constantly changing" and so there was no fixation.

ISSUES (what is in the dispute):

The test case is important in clarifying copyright laws on the telephone directories, with potential impact on other directory publishers. **At issue is whether any firm should have intellectual property rights over published names, addresses, phone and fax numbers of firms and businesses, which are facts for information.**

HOLDING (the applied rule of law):

The High Court, in judgment grounds issued 28 January 2016, ruled that **the plaintiff did not have copyright in some of the works cited. As there was no copyright, there was no infringement.** The judge found that there was no infringement by Promedia, as there was no substantial reproduction and referencing of listings that could amount to infringement. The judge dismissed plaintiff's entire claim of copyright infringement and allowed Promedia's counter-claim against it for groundless threat of copyright infringement.

According to the High Court's judgement, **copyright does not subsist in individual listings. The form of expression contained in the listings does not meet the level of originality for copyright protection to be conferred.** Indeed Section 27 Copyright Act (Cap 63, 2006 Rev Ed) required creativity for copyright protection.

RATIONALE (reasons for the holding):

The judge held that while plaintiff would own the copyright in its directories as a whole and the copyright in the compilations in each directory, there is no copyright in the individual listings as "they are essentially facts, and there cannot be copyright in facts". "These are facts which no one can claim copyright ownership over; they are entitled to be used by everyone".

"It is senseless to speak of anyone... owning or having copyright monopoly over the use of the information in each parcel of subscriber information or each subscriber listing".

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