



CZECH REPUBLIC

SOLUTION

ON BEHALF OF THE REPUBLIC

The Municipal Court in Prague, ruled by Judge JUDr. Filip Liška in

the case of the plaintiff: **S. Š.**, born xxx, Xxx, Xxx

vs.

to the defendant: **TAUBEL LEGAL**, Attorneys at Law Law Office s.r.o.,  
ID 24769321,  
Sokolovská 68/105, 186 00 Prague 8

**for the removal and abstention from interference with copyright, for the determination of authorship**

**That's right:**

- I. Application for a declaration that the applicant is the author of a graphic created by the applicant on xxx by means of an artificial intelligence system called Xxx , available on the website xxx, which is annexed to this judgment, and which was created on the basis of the applicant's following assignment: 'create a visual representation of two parties signing a business contract in a formal setting, for example in a commercial room or in the office of a law firm in Prague. Show only the hands.'" dismissed.
- II. An action to order the defendant to remove from the xxx website a graphic created by the applicant on xxx by means of an artificial intelligence system called Xxx available on the xxx website, which is annexed to this judgment and which was created on the basis of the applicant's following assignment: 'create a visual representation of two parties signing a business contract in a formal setting, for example in a conference room or in the office of a law firm in Prague. Just show your hands.'" dismissed.
- III. An action to enjoin the defendant from any other conduct that would infringe or interfere with the rights of the plaintiff as the author of a graphic created by the plaintiff on xxx by means of an artificial intelligence system called Xxx available on the website xxx, which is annexed to this judgment and which was created on the basis of the plaintiff's following assignment: "create a visual representation of two parties signing a business contract in a formal setting, such as a conference room or the office of a law firm in Prague. Just show the hands." Dismissed.
- IV. Neither party is entitled to the costs of these proceedings.

Certified as a true copy by Helena Škardová.

### **Justification:**

1. The plaintiff, in an action brought before the court below, sought to establish authorship of an image created by an artificial intelligence called XXX on xxx based on the plaintiff's assignment to "create a visual representation of two parties signing a business contract in a formal setting, such as a conference room or a law firm office in Prague. Just show your hands.". He also sought injunctive and declaratory relief as set out in the operative part of the judgment for the defendant's tortious interference with the plaintiff's copyrighted work. The defendant interfered with the plaintiff's copyright by publishing the plaintiff's graphic artwork on its website without the plaintiff's consent.
2. The defendant does not admit the defendant's claims and considers the action to be unfounded in its entirety. It considers that the image created by artificial intelligence does not constitute a work of authorship pursuant to Section 2 of the Copyright Act ('the CA'), as it does not meet the conceptual characteristics of a work of authorship and therefore the plaintiff is not its author pursuant to Section 5(1) of the CA.
3. In the proceedings, the parties have made it undisputed that the image showing the two hands was created by artificial intelligence, was sent to the defendant by the plaintiff and is currently presented on the website xxx. These facts are also apparent from the evidence of email correspondence between the applicant and Mr H., the defendant's cooperating solicitor, and a print scan of the defendant's website.
4. The plaintiff emailed the defendant on 12.5.2023 requesting the removal of the graphic he created from the website xxx. (email correspondence between the claimant addressed to e.mail xxx)
5. At the hearing on 11 October 2023, the plaintiff was instructed pursuant to Section 118a of the Civil Procedure Code, including the possible consequences of failure to comply with this request, that it must prove how the subject graphics were created, and in particular on the issue of authorship concerning the proof of who commissioned the artificial intelligence to create the subject graphics and on the basis of what specific commission, a specific person, the artificial intelligence created the subject graphics. The plaintiff, after being instructed by the court, stated that beyond its declaration, it had no further evidence to submit and so the court finds that the plaintiff has failed to prove these facts in the proceedings.
6. As a matter of law, the court assessed the case as follows:
  7. According to Section 2(1) of the Copyright Act, the subject matter of copyright is a literary work and other artistic and scientific work which is the unique result of the author's creative activity and is expressed in any objectively perceptible form, including electronic form, permanently or temporarily, regardless of its scope, purpose or meaning (hereinafter referred to as "work"). In particular, a work is a verbal work expressed in speech or writing, a musical work, a dramatic work and a work of music-drama, a choreographic work and a work of pantomime, a photographic work and a work expressed by a process similar to photography, an audiovisual work such as a cinematographic work, an artistic work such as a work of painting, graphic art and sculpture, an architectural work including a work of urban design, a work of applied art and a cartographic work.
  8. According to Section 2(6) of the Copyright Act, a work under this Act does not include, in particular, the subject matter of a work per se, a daily report or other data per se, an idea, procedure, principle, method, discovery, scientific theory, mathematical or similar formula, statistical graph or similar subject matter per se
  9. According to Section 5(1) of the Copyright Act, the author is the natural person who created the

work.

10. Pursuant to Section 40(1) of the Copyright Act, an author whose right has been unlawfully interfered with or whose right is threatened with unlawful interference may seek, in particular, (a) a determination of his authorship, (b) an injunction against threatened infringement of his right, including threatened repetition, or unlawful interference with his right, in particular an injunction against unauthorised production, unauthorised commercial sale, unauthorised

import or export of the original or a reproduction or imitation of the work, unauthorised communication of the work to the public, as well as unauthorised publicity, including advertising and other publicity. d) removal of the consequences of the interference with the right, in particular by 1. withdrawal of the unauthorised reproduction or imitation of the work or of the device, product or component referred to in Section 43(2) from trade or other use.

11. Insofar as the plaintiff brought his claims under section 40(1)(a)(b) and (d) of the Copyright Act, the court had to answer as a preliminary question whether the plaintiff was the author of the image in question, whose copyright had been infringed by the defendant's unauthorised use of the work. As regards authorship, it was undisputed in the proceedings that the depiction of shaking hands ('the picture') was created by means of artificial intelligence. Artificial intelligence cannot in itself be the author in view of the failure to comply with the provisions of

§ Section 5 of the Copyright Act, where the author can only be a natural person, which artificial intelligence is certainly not. The applicant claimed in the proceedings that the image in question was created by an artificial intelligence on the basis of his specific assignment and therefore he is the author of the image created by the artificial intelligence. However, he did not adduce any evidence in support of that fact, only his personal statement. The applicant was instructed to prove this fact in accordance with Article 118(3) of the Civil Procedure Code and, despite this instruction, he did not provide the court with specific new evidence. Thus, after taking all the evidence proposed by the plaintiff, the court concludes that it has not been proved in the proceedings that the AI created the image in question on the basis of the plaintiff's assignment as set out in the petition. Thus, the plaintiff did not carry its burden of proof on the issue of the authorship of the AI's request or on the alleged fact that the AI created the subject image, a depiction of shaking hands, based on the request in the petition. In view of the fact that it was undisputed in the proceedings that the image was created by artificial intelligence and the plaintiff did not carry its burden of proof that it was the author of the specification of the subject image under Section 5, 6 of the Copyright Act. In the proceedings, the applicant has also failed to discharge his burden of proving that the image in question was created on the basis of his specific assignment, which is the subject of the petition. Thus, the applicant does not have standing to bring claims under Article 40(1) of the Copyright Act, which can only be brought by the author whose rights have been infringed. For that reason, the court held that the action was unfounded and dismissed it in its entirety.

12. Beyond that, the court finds that the image created by artificial intelligence does not constitute a work of authorship under Section 2 of the CA, because it does not meet the conceptual characteristics of a work of authorship. Or it is not a unique result of the creative activity of a natural person - the author. The applicant himself did not personally create the work, it was created with the help of artificial intelligence, and it has not been established in the proceedings on the basis of which specific assignment. As regards the assignment itself, which was allegedly intended to be the basis for the subsequent image created by the artificial intelligence, it is possible to talk about the subject matter of the work or possibly the idea, but these are not in themselves works of authorship according to. § Section 2(6) of the Copyright Act. Copyright is an absolute right belonging to an individual if the image in question was not created by the applicant personally but was created by an artificial intelligence, it cannot by definition be a work of authorship. The Court therefore considers that the image in question is not a work of authorship, let alone a work of the applicant.

13. The court decided on the costs of the proceedings in accordance with Section 142(1) of the Civil Procedure Code, where the defendant, who was fully successful in the case, is entitled to the costs of the proceedings from the plaintiff. However, the defendant, who was not represented by a lawyer, did not incur any costs.

**P a g e:**

An appeal against this judgment may be lodged in triplicate within fifteen days from the date of delivery of a written copy thereof; the appeal shall be lodged with the Municipal Court in Prague and decided by the High Court in Prague as the Court of Appeal.

Prague, 11 October 2023

JUDr. Filip Liška v.  
r. single judge