

**Supreme Court of Norway, decision nr. HR-2014-616-U of 25 March 2014, appeal over Asker and Bærum District Court decision nr. 13-052071TVI-AHER/1 of 23 September 2013**

**Moral rights – paternity right – proper usage – design – furniture**

There are not many copyright cases from the courts of Norway decided on the basis of author's moral rights. But last year the Asker and Bærum District Court made a decision on the basis of paternity rights. The case was appealed and later dismissed by the Borgarting Court of Appeal in Oslo and by the Supreme Court.

In 2010 a Norwegian designer, Linn Anna Bjørk, designed a stool named "Warning". Bjørk and the Danish company Onecollection A/S agreed that Onecollection A/S should produce and market the stool. According to the agreement the designer should be named in advertisement and on packaging with "Design: Linn Anna Bjørk", and in any presentation of the stool. In addition each manufactured copy introduced to the market should be marked with a Copyright Notice in accordance with the rules applicable under the United States Copyright Act.

The stool was introduced to the market in 2011. Bjørk was not mentioned by name on the stool, nor on the cloth bag which the stool was put in, inside a cardboard box. The cloth bag was marked Onecollection. The cardboard box was marked "Warning" and "Designed by Linn Anna Bjørk" written in large letters. In 2012 the stool won the "Wallpaper Design Award" and "Bo Bedres Designpris". (BoBedre is a Norwegian lifestyle magazine.)

In 2013 Onecollection terminated the contract, and Bjørk cancelled for breach of contract. Bjørk brought legal action against Onecollection claiming that her name should have been applied on the cloth bag and on the stool directly.

The Norwegian Copyright Act of 12 May 1961 (in English <http://www.kopinor.no/en/copyright/copyright-act>) section 3, §1, states that "Both when copies of artistic work are produced, and when it is made available to the public, the author is entitled to have his name stated in the manner required by proper usage".

The District Court held that "the manner required by proper usage" in furniture design does not require the producer to label each copy which is put on the market with the name of the author. There is room for variations and "proper usage" in furniture industry indicates that the authors name is applied in relation to the copy and not on the actual copy. The moral rights had not been infringed. Bjørk was aware that the stool was put into production in May 2011, and probably aware that copies were not labelled with her name. According to the District Court the parties prioritized production and sale, and discussed labelling in future production. The Borgarting Court of Appeal and the Supreme Court dismissed Bjørk's appeal, on the grounds that there were no more stools left to label, they were at the time either sold or destroyed. The judgment is not controversial and is believed to be in accordance with EU law.

Blog post by Kari Anne Lang-Ree (NRK)