

Copyright law: architect's right of integrity railroaded?

LAUTERBACH, T.

2010

Germany

Copyright law: Architect's right of integrity railroad?

Thorsten Lauterbach
Robert Gordon University, Aberdeen

The Stuttgart Regional Court in Germany, balancing the right of integrity under copyright attributed to the architect of a work of architecture and the right to property held by the owner of the building, recently found against the grandson of Paul Bonatz, the architect of the Stuttgart terminus station, and in favour of Deutsche Bahn AG who seek to demolish part of that station during the construction of a new through station. TICCIH readers (see, for example, TICCH No 42, page 2) will be aware of 'Stuttgart 21', short-hand for the long-standing project to turn the current Stuttgart terminus into an underground through-station. Peter Dübbers, the heir of Paul Bonatz, has led a large group of opponents against this project, as he is of the opinion that it threatens to mutilate the widely admired original work of architecture by 'amputating' large parts of the terminus building, namely the side ranges and the shed. The court was invited to balance the legitimate interests of the parties to the dispute. The court recognised that Mr Dübbers can lawfully point to the fact that copyright in the building has not yet expired. While that includes the rights of ownership held by Deutsche Bahn AG, it also extends to so-called moral, or authors' rights which are inalienable under

German copyright law. But where should the judicial hammer fall when weighing up the property rights of Deutsche Bahn, representing the interest to modernise the station, in the light of Dübbers' moral rights to preserve the station in its current form, none of which can claim absolute status?

The court eventually gave judgment in favour of Deutsche Bahn after a 47-page balancing act. Overall, taking all circumstances into account, the demolition of parts of the building was to be granted because the interests of the owner of the building trump authors' rights. The court agreed that the demolition constitutes significant interference with an original work of architecture which attracts copyright protection which will lead to drastic changes in the building's appearance. However, these modifications had to be viewed in the light of the period of copyright protection running out in 2026: Bonatz, the 'author' of the work passed away in 1956, and German copyright law provides for a 'life of the author plus 70 years' period of legal protection. In addition, the project did not foresee the demolition of the main station building, but 'merely' the side wings and the shed part of it, as well as certain internal parts, for example the large staircase leading from the underground to the passenger hall: in the court's opinion, the most significant parts of the building, in an architectural sense, would remain untouched. The court emphasised that Bonatz himself agreed that a railway station fulfils a public function first and foremost, and he had taken that view into consideration himself when planning the terminus building all those years ago. Indeed, Bonatz himself had agreed to subsequent, albeit less drastic, changes to the building in the light of its purpose in the past. Since the project includes a through-station, certain parts of the current building clearly lose their function they fulfilled as a terminus. Hence, the owner's desire to modernise them with regard to the strong public interest to link Stuttgart station to the European high-speed rail network – with all the consequences in terms of funding of the project, city planning and changes to infrastructure – must be recognized to the detriment of the author's right of integrity of the original work, so the court.

So, while authors' rights which enjoy a position of strength in civilian jurisdictions have featured prominently in many recent disputes between architects and owners of works of architecture, once these rights are nearing their sell-by date, or period of protection, their legal significance is diminished vis-à-vis traditional property rights. Mr Dübbers, however, has not been deterred by this first instance defeat for long: at the end of June he indicated his intention to appeal the judgment, expecting a hopefully favourable judgment to be handed down by the end of the year and a staying of any imminent plans to start the demolition in the meantime.