



AudioMovie

AUDIO DESCRIPTION

- IS IT LEGAL ?

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OUTLINE OF THE PRESENTATION

1. AudioMovie - the project
2. Legal grounds – copyright aspects
3. Legal grounds – exploitation of audio description
4. Discussion/questions

PARTNERS



DUBBING

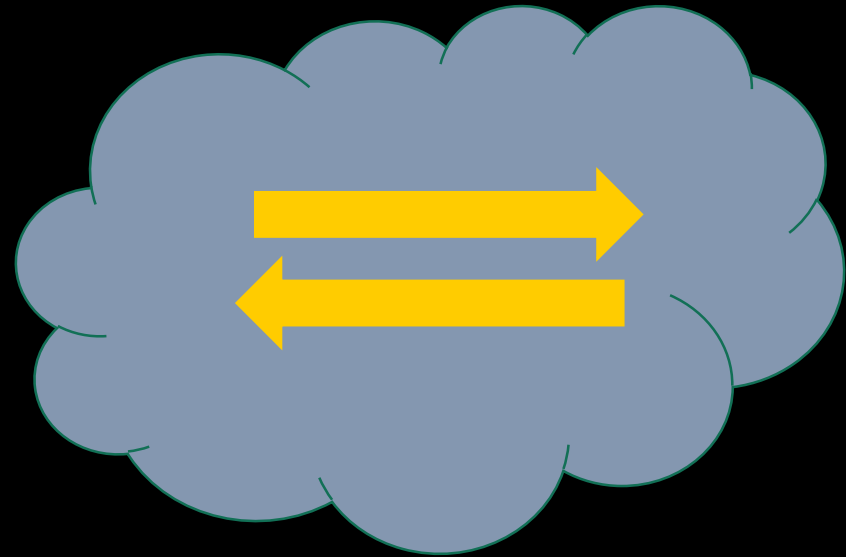
VOICE-OVER

ORIGINAL VERSION

AUDIOSUBTITLES

AUDIO DESCRIPTION

SUBTITLES



LEGAL SOLUTIONS

LEGAL PROBLEMS

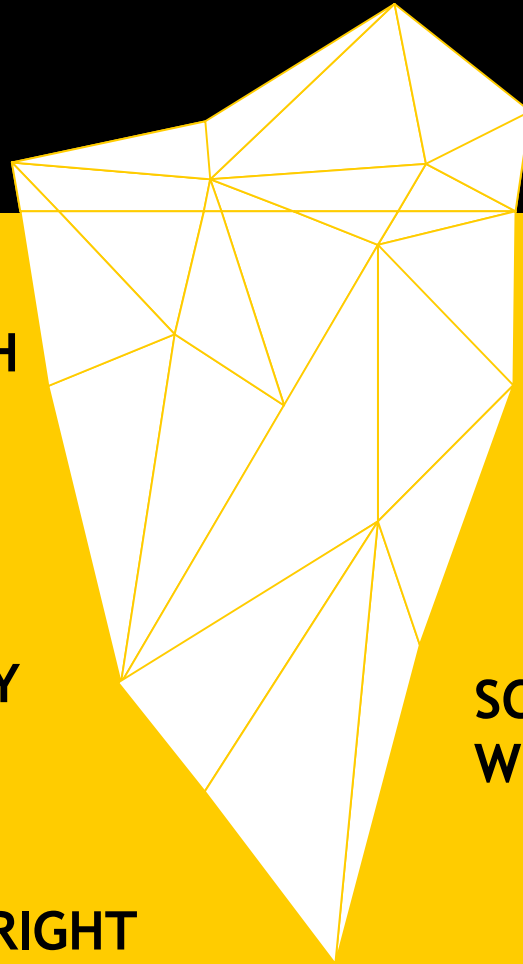
**NO CONTRACTS WITH
AUDIO DESCRIBERS**

DOUBLE SCRIPTS

**FAIR USE SCRIPTS
USED COMMERCIALY**

**SCRIPTS SHARED
WITHOUT LICENSES**

**NO COPYRIGHT
PROVISIONS**



Would you like to help us
mapping legal solutions
for AD in EU

?!

Contact us through FB or @
www.audiomovie.pl

WHAT IS AD
LEGALLY SPEAKING?

DEFINITIONS OF AD

- „Picture painted with words“
- Additional commentary
- Verbal description of visual cues
- Intersemiotic translation
- Audiovisual translation

SOME EXAMPLES OF AD

- „Peugeot drives slowly through the forest. Little Nicholas behind the wheel. Behind the car, the parents are slowly pushing the car forward.
- (...) On the school courtyard (...)
- Ananias comes out of one of the cabins.”
- Running along a narrow corridor. Behind his back pieces of rock are falling (..) They watch scared.

IS AUDIO DESCRIPTION A COPYRIGHTABLE WORK?

Berne convention – art. 2: “literary and artistic works” shall include every production in the literary, scientific and artistic domain, whatever may be the mode or form of its expression (...)

National regulation:

art. 2 p. 2 German Copyright Act:

2) Only the author's own intellectual creations constitute works within the meaning of this Act.

Art. 1. 1 Polish Copyright Act: 1. The object of copyright shall be any manifestation of creative activity of individual nature, established in any form, irrespective of its value, purpose or form of expression (work).

IS AUDIO DESCRIPTION A COPYRIGHTABLE WORK?

- European standard of originality (the author's own intellectual creation)
- In verbal works - no detailed definition in EU law, but some judgements explain that

Example:

ECJ UE – judgement 16 July 2009

Infopaq International A/S/ v. Danske Dagblades Forening,
case C-5/08, <http://curia.europa.eu/>

IS AUDIO DESCRIPTION A COPYRIGHTABLE WORK?

As regards newspaper articles, their author's own intellectual creation, referred to in paragraph 37 of this judgment, is evidenced clearly from the form, the manner in which the subject is presented and the linguistic expression. In the main proceedings, moreover, it is common ground that newspaper articles, as such, are literary works covered by Directive 2001/29.

- Regarding the elements of such works covered by the protection, it should be observed that **they consist of words which, considered in isolation, are not as such an intellectual creation** of the author who employs them. **It is only through the choice, sequence and combination of those words that the author may express his creativity in an original manner and achieve a result which is an intellectual creation.**
- Words as such do not, therefore, constitute elements covered by the protection.

CONSEQUENCES

Audio describers are protected by copyright:

- Moral rights (attribution right)
- Economic rights

CONSLUSION

AS REGARDS AD
EVEN IF IT CONSIST OF TYPICAL WORDS,
WHICH DESCRIBE BODY LANGUAGE,
EXPRESSION, MOVEMENTS,
EVEN USES IN A VERY SIMPLE WAY,
AS A WHOLE IT MAY NEVERTHELESS
ENJOY COPYRIGHT PROTECTION

AUDIO DESCRIPTION

LEGAL QUALIFICATION

Verbal work ☒

Derivative work
(Art. 2 .3 Berne convention)

Translations, adaptations, arrangements of music and other alterations of a literary or artistic work shall be protected as original works without prejudice to the copyright in the original work.

AD AS DERIVATIVE WORK - CONSEQUENCES

Creation and exploitation of AD :

- Needs a permission of the owner of the original work or a special legal

or

- Special law provision („constituted” condition for „fair use”/ in EU: exception/limitation of copyright)

AUDIO DESCRIPTION

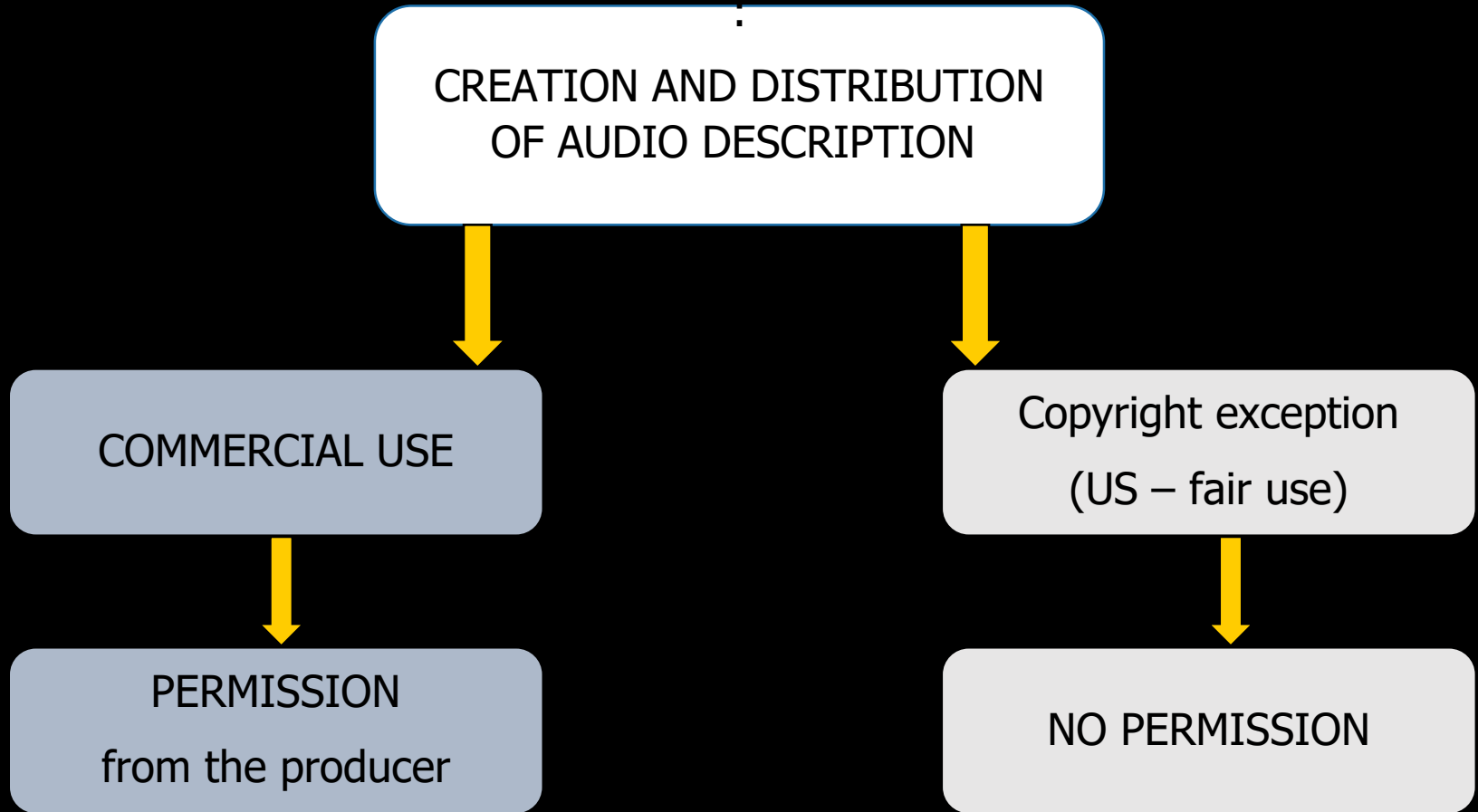
LEGAL QUALIFICATION

- Verbal work** ☒ **Part of an audiovisual (film) work ?**
- Derivative work** ☒

HOW TO MAKE AD LEGAL?

1. Decide how you are creating it!
2. Sign necessary agreements!

TWO WAYS OF CREATING AD LEGALLY



SPECIAL FAIR USE

ART. 5/2/B DIRECTIVE 2001/29

Uses of the work, for the benefit of people with a disability, which are directly related to the disability and of a non-commercial nature, to the extent required by the specific disability;

SPECIAL FAIR USE

Authorised entities:

- People with disabilities, other bodies (public, private, organisations acting for the benefit of people with disabilities).
- The condition of use directly pertaining to a disability, undertaken to the extent resulting from the nature of this disability (forms of making works available adequate to a type of disability; audio description).

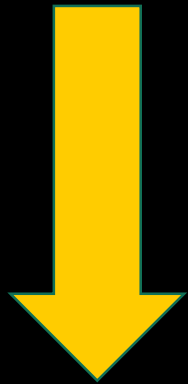
**Condition of fair use:
IT HAS TO BE NON COMMERCIAL!!!**

SPECIAL COPYRIGHT EXCEPTION - ART. 5/2/B DIRECTIVE

- This provision has been implemented to national copyright regulations but not in all EU countries.
- A new proposal is coming (draft regulation on Copyright in the single market-)

WHAT CONTRACTS SHOULD BE SIGNED?

Owner of the copyright to the film



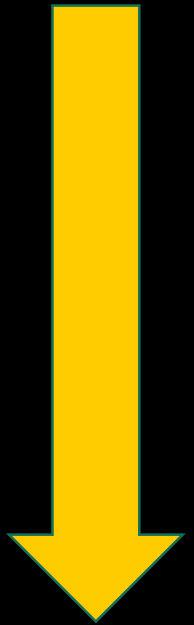
Permission to prepare AD*

AD Producer

* Unless AD will be created and distributed within the „fair use“

WHAT CONTRACTS SHOULD BE SIGNED?

AD Producer



- **Copyright transfer**
- **License**

Audio describer

GUIDELINES



Within the scope of AudioMovie we have created guidelines that discuss the legal status of audio description and propose example agreements to be signed between all the players of the workflow. For now they are only in Polish but if you are interested please contact us. We will be happy to translate them and share.

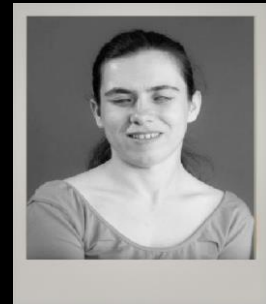
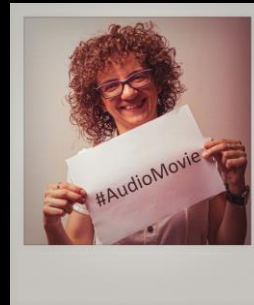
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The National Centre
for Research and Development

THE TEAM



ANY QUESTIONS?

YOU CAN REACH AS AT

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