The “IP Jurisprudence” of the European Court of Human Rights

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IP & the Judiciary, 17th EIPIN Congress, 28th-30th January 2016
Strasbourg “Jurisprudence on IP” – most prominent Judgments

- Anheuser-Busch v Portugal 73049/01, 11th January 2007 (GC, A1P1)
- Ashby-Donald v France 36769/08, 10th January 2013 (Art 10)
- Neij v Sweden 40397/12, 19th February 2013 (Art 10)
Strasbourg “Jurisprudence on IP – other interesting Judgments

• “Personality rights”
  – Ernst August von Hannover v Germany 53649/09, 19\textsuperscript{th} February 2015 (Art 8; A1P1)
  – Bohlen v Germany 53495/09, 19\textsuperscript{th} February 2015 (Art 8, A1P1)

• Internet blocking order
  – Akdeniz v Turkey 20877/10, 11\textsuperscript{th} March 2014 (Art 10, Art 6)
Schau mal, Dieter, so ehrlich schreibt man nicht Bücher.

War das Ernst? Oder August?
Limits to deference

• *Balan v Moldova* 19247/03, 29<sup>th</sup> January 2008 (A1P1)

• *Cengiz v Turkey* 48226/10 & 14027/11, 1<sup>st</sup> December 2015
Prospects?

• Obstacles to development of a substantive IP jurisprudence?
  – Continuing problem of case-load
  – Court of Justice’s assumption of responsibility for fundamental rights protection

• Potential areas of development
  – Non-EU states? “Blind-spots”? Enforcement?
However….

• Heightened relevance of Strasbourg case-law in national IP proceedings?

• For example:
  – Standardised packaging of tobacco products – expropriation of trade mark rights?
  – Parody – copyright – achieving the “fair balance”