Press Release

Publication date for BGH judgement in the printer and PC case

Munich, 3 July 2014. The Federal Supreme Court (Bundesgerichtshof-BGH) today published its judgement concerning the obligation to pay copyright remuneration for printers and PCs under the old law (in force to the end of 2007). At present VG WORT has only seen the BGH press release and not the judgement itself.

The BGH press release reads as follows:

The Bundesgerichtshof has decided that printers, but not PCs, are included in the types of copying devices subject to the obligation to pay remuneration under § 54a of the old German Copyright Law (UrhG aF). This determination applies, in accordance with the Directive, only to copying processes which result in an analogue copy; this is regardless of whether the copying is from an analogue or digital source. Copying processes involving various devices are also covered where such devices are interconnected and are involved in a single copying process which is carried out by the same person, and has the object of producing an analogue copy. Provided these conditions are fulfilled, not only are copying processes involving the chain scanner-PC-printer, but also those involving PCs and printers only, subject to remuneration. However, within such a chain, only the device which is most clearly intended to be used, together with other devices, to produce copies is subject to remuneration. In the case of the functional-unit scanner-PC-printer this is the scanner; within the functional-unit PC-printer this is the printer. Copying processes in which a PC is the final device are not subject to remuneration under § 54a UrhG aF since they result in digital copies.

The Bundesgerichtshof further held that devices liable to remuneration under § 54 UrhG aF include PCs. This determination covers copies made in transferring from one video or audio recording medium to another. Under § 16 sec. 2 UrhG, “video or audio recording mediums” are devices permitting the repeated communication of video or audio sequences. This covers also digital storage media such as hard drives. In the transfer from one digital storage medium to another not only can films and music be copied but also the “still” text or “still” images of the authors of literary works, photographs, pictures and graphics represented by the plaintiff and the collecting society VG Bild-Kunst; such text or images can for example be downloaded on the internet from the hard drive of a server on to the hard drive of a computer. In so far as computers are used in this way as the final device in a single copying process to produce a digital copy, they are subject to remuneration under § 54 UrhG aF.
VG WORT welcomes today’s decisions of the BGH. They establish that there is an obligation to pay remuneration for printers and PCs also under the old law. Although the amount of the levies still remains open and will be the subject of further proceedings, the basic principle is now clear.

Therefore, after years of litigation through all instances and including references to the Federal Constitutional Court and the European Court, this result is a great success for the authors and publishers represented by VG WORT.

Summary of the history of the proceedings

The proceedings concerned the validity of claims to remuneration for the copying of text and image works. In December 2007 and October 2008, the BGH for its part initially rejected an obligation to pay remuneration for PCs and printers. However, the subsequent constitutional complaint by VG WORT was successful. The Federal Constitutional Court rejected the decisions of the BGH and referred the case back to it.

The BGH then stayed the proceedings and referred certain questions concerning the interpretation of the Directive on the Harmonization of Certain Aspects of Copyright Law and Related Rights in the Information Society (RiLi 2001/29/EG v. 22 May 2001) to the European Court (EuGH).

In June 2013, the EuGH held that a device levy was payable for the copying of protected works with printers or PCs, which were connected to each other. The EuGH confirmed the legal interpretation of VG WORT on important points and referred the proceedings back to the BGH.

The proceedings were recommenced in the BGH on 31 October 2013. Initially, judgement was set to be given on 22 January 2014. On 22 January 2014, the court decided to reopen the oral proceedings. The new hearing took place on 30 April 2014.

Verwertungsgesellschaft WORT administers exploitation rights and claims to remuneration for over 400,000 authors and 10,000 publishers in Germany on a fiduciary basis. www.vgwort.de.

Press contact Angelika Schindel, 089 5141292
angelika.schindel@vgwort.de