Press Release

European Court of Justice rules in favour of VG WORT

In its judgement of 27.06.2013 the European Court of Justice held that a copyright levy can be imposed on printers or computers for the copying of protected works.

In 2011 the German Federal Court of Justice (Bundesgerichtshof) in relation to proceedings brought by VG WORT in 2002 against manufacturers, distributors and importers of printers and computers referred several questions to the European Court of Justice (ECJ).

The European Court has upheld the legal position taken by VG WORT on important points. The exception provided in the EU Copyright Directive for “reproductions on paper or any similar medium, effected by the use of any kind of photographic technique or by some other process having similar effects” includes copying by means of a printer or PC in so far as these devices are connected to each other. If the copying process thereby made possible results in a reproduction on paper or a similar medium, the rightsholders must in any event receive fair compensation for this.

Further, entitlement to fair compensation does not depend on whether the rightsholder has authorised the reproduction in question or not. If an EU member state permits certain copying in its law, as Germany does in § 53 of the Copyright Act (UrhG), possible consent of the rightsholder has no bearing on the remuneration payable.

Finally, the mere possibility of applying technical protection measures to prevent or restrict copying in no way affects the entitlement to remuneration.

This judgement of the ECJ provides clarity in an important and longstanding legal dispute. “It has great significance in ensuring that authors and rightsholders receive equitable remuneration in the digital environment”, said Dr. Robert Staats, joint CEO of VG WORT. This applies equally to the copyright law in force until the end of 2007, which governs the proceedings before the Bundesgerichtshof, as to the post 1 January 2008 copyright law.
Summary of the history of the proceedings

The Bundesgerichtshof rejected a levy on printers and PCs in December 2007 and October 2008. The constitutional complaint by VG WORT against these decisions was however successful. The constitutional court (Bundesverfassungsgericht) rejected the decisions of the Bundesgerichtshof and referred the issues back to the Bundesgerichtshof for reconsideration.

The Bundesgerichtshof stayed the proceedings and referred certain questions as to the interpretation of the Directive on the harmonization of certain aspects of copyright and related rights in the information society (Directive 2001/29/EC of 22 May 2001) to the European Court of Justice. Following the present decision of the European Court the proceedings will continue in the Bundesgerichtshof.

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