[ES] Manufacturer of Blank Data CD-R Ordered to Pay Levy to Copyright Management Society

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On 2 January 2002, a Spanish Court of First Instance held that Traxdata, a company which manufactures and distributes audio and data CD-R (CD-Recordable), had to pay a levy to the Sociedad General de Autores y Editores (SGAE), a copyright management society which administers the rights relating to music and audiovisual authors and editors.

According to Spanish copyright law, in certain cases a levy on the distribution and selling of storage means can be collected in order to compensate the music industry for losses due to copying. It was widely accepted that this levy was due in the case of audio CD-R and audio CD-RW (CD-Rewritable), as they have been designed to record music on them. However, Traxdata considered that no levy should be paid for the distribution of blank CD-R used to record data, as they were not intended to be used to record phonograms.

The Judge dismissed that argument, holding that the evidence provided by the SGAE had proved that data CDR are suited to be used to record phonograms and are widely used for this purpose. Therefore, the Judge upheld the SGAE's claims, and ordered Traxdata, as a distributor of data CD-R, to pay an equitable compensatory remuneration to the SGAE in accordance with the terms established by article 25 of the 1996 Spanish Copyright Act. This judgment has been widely contested by some consumer groups and by Traxdata, which has appealed it before the Audiencia Provincial (Provincial Court).

Sentencia del Juzgado de Primera Instancia n. 22 de Barcelona de 2 de Enero de 2002, Traxdata/SGAE

http://www.sgae.es/html/asesjuri/jurisprudencia/pdf/st_traxdata.pdf

Judgment of the Barcelona Court of First Instance n. 22 of 2 january 2002, Traxdata/SGAE

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