[DE] Federal Supreme Court Rules on Electronic Press Reviews

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In a decision of general principle, the Bundesgerichtshof (Federal Supreme Court - BGH) has ruled that the socalled "press review privilege" described in Section 49.1 of the Gesetz über Urheberrechte und verwandte Schutzrechte (Act on Copyright and Related Rights - UrhG) also applies to electronic press reviews under certain conditions. This means that, if those conditions are met, the copyright collecting company Wort (VG Wort) may also demand the statutory fees from publishers of electronic press reviews.

The plaintiff in the legal dispute to which the judgment referred was a daily newspaper, which wanted to prevent VG Wort from collecting the statutory copyright fees. In the lower courts to which the case had previously been brought, the judges had upheld the newspaper publisher's claim that the rights to an electronic press review belonged to the authors of the texts (or to the publishers if those rights had been transferred) and could therefore not be exploited in the manner provided for in Section 49.1 of the Copyright Act. However, the BGH disagreed, ruling that there was no significant difference between electronic press reviews and those published in paper form. The civil chamber suggested that, in this day and age, press reviews published on paper were probably produced electronically anyway. Therefore, irrespective of the form in which a press review was published, it was likely that an electronic archive would be produced during the publication process. However, an electronic press review only fell under the scope of Section 49.1 of the Copyright Act if it was aimed at a clearly defined group of readers, ie if it was only intended for internal use by a company or official body. Commercial services, therefore, were not covered by the provision.

Bundesgerichtshof, Urteil vom 11. Juli 2002 (Az.: I ZR 255/00)

Federal Supreme Court, judgment of 11 July 2002 (case no. I ZR 255/00)

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