[DE] Federal Supreme Court on DVD Reproduction Rights

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Kathrin Berger
Institute of European Media Law (EMR), Saarbrücken/Brussels

In a ruling of 19 May 2005, the Bundesgerichtshof (Federal Supreme Court - BGH) decided that old feature film marketing contracts cover marketing of DVDs as well as video cassettes.

According to Art. 31.4 of the Urhebergesetz (Copyright Act - UrhG), exploitation rights may not be granted for as yet unknown types of use. In old contracts, film manufacturers often granted video reproduction rights. In Germany, storage of films on DVD has only become common since the 1990s. Reproduction on DVD might therefore have been classified as a new type of use, distinct from video. That would have meant that companies entitled to produce videos of numerous films would not have held the equivalent rights for DVDs.

The BGH did not consider DVD to be a new type of use. It stated that, as well as technical innovation, a new type of use should be financially independent. However, in relation to the traditional marketing of video cassettes, DVD reproduction did not represent an economically independent form of exploitation. It did not create a new market, but was replacing video reproduction. It was likely that, in the longer term, video cassettes would simply be replaced by the DVD format.

Urteil des Bundesgerichtshofs (BGH) vom 19. Mai 2005, Az. I ZR 285/02

Ruling of the Federal Supreme Court, 19 May 2005, case no. I ZR 285/02

Pressemitteilung des BGH

http://juris.bundesgerichtshof.de/cgi-bin/rechtsprechung/document.py?Gericht=bgh&Art=pm&Datum=2005&Sort=3&nr=32740&anz=78&pos=0&client=12&Blank=1

BGH press release

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