[HU] Copyright Aspects of Network-based PVR

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In January 2008, the Szerzői Jogi Szakértő Testület (Board of Experts on Copyright) delivered an opinion clarifying the qualification of the network-based personal video recorder service from the perspective of copyright.

The Board of Experts on Copyright is a professional body established by Act LXXVI of 1999 on Copyright (Copyright Act). Its role is to provide advice for courts, authorities and other interested parties on questions concerning copyright.

Personal video recorder solutions are provided by some service providers who offer digital television programme distribution. It is recognised that the recording of programmes on a set-top box offering PVR functionality by an individual may qualify as copying for private purposes and therefore may constitute private use. However, the question still remains as to how copying shall be evaluated if the programmes chosen by individual users are stored not on the hard drive of their consumer equipment, but on the server of the service provider (network PVR, NPVR).

The Board of Experts on Copyright examined the question of NPVR following the request of Artisjus, the Hungarian collecting society for authors.

In its opinion, the board found that, in the case of NPVR, service providers are actively involved in the process of copying. They are not just providing a technical framework, but also control the entire process of copying. As a consequence, the provision of NPVR cannot be regarded as mere assistance provided to copying for private purposes. Therefore offering such a service cannot constitute private use in terms of copyright.

The opinion of the Board of Experts on Copyright is in line with recent relevant judicial decisions in Germany and in the USA. However, it also highlights that technological neutrality is not a relevant principle for copyright.

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