[FR] Court Penalty for an Online Digital Video Recorder

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An Internet site was making available to signed-up television viewers who asked for it a copy of television programmes one hour after they had been broadcast. Online digital video recorder or abusive profiteer of technology? The regional court in Paris reached a decision on 6 August 2008. The case had been brought by the television channels M6 and W9, which saw this service as direct competition for their catch-up TV service and a violation of the rights they had acquired for the recorded works, which meant that the court had to examine the nature of the service in question. Catch-up TV is the new tool for promoting programmes and channels, in which broadcasters are placing a lot of hope – and a lot of money. The rights for works broadcast on the channels now also include broadcasting on catch-up TV and this increases their value. Broadcasters are therefore not happy with the competition from services of this type, such as the online digital video recorder. In the present case, the Internet site had not acquired any rights in respect of the works they were supplying copies of; in its capacity as an online digital video recorder, it claimed the benefit of the exemption from copyright for making a private copy, which exonerates the manufacturers and uses of recording material, such as video and DVD recorders, from prosecution. Aware of what was at issue, the court finally recalled that it is “prohibited to create and appropriate an economic good using a service for copying audiovisual works or programmes that diminishes the remuneration of the holders of the intellectual property rights”. The Internet site has therefore been declared unlawful and may not continue its activities without first acquiring the rights or negotiating with the holders of the rights, which in this case are the television channels.

TGI de Paris, 6 août 2008, Métropole Télévision et autres c/ Wizzgo

http://www.legalis.net/jurisprudence-decision.php3?id_article=2405

Regional court of Paris, 6 August 2008, Métropole Télévision et al. vs. Wizzgo

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