# [DE] Court Temporarily Bans ZPÜ from Setting PC Copyright Levy Tariff

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*Peter Matzneller*
*Institute of European Media Law (EMR), Saarbrücken/Brussels*

On 19 February 2010, the *Oberlandesgericht München* (Munich Appeal Court - OLG) issued a temporary order (case no. 6 WG 6/10) against the *Zentralstelle für private Überspielungsrechte* (Central Office for Private Copying Rights - ZPÜ), preventing it from setting a tariff for a levy on PCs and/or publishing such a tariff in the *Bundesanzeiger* (Federal Gazette) before it had reached an agreement with all negotiating parties. If these negotiations were unsuccessful, an arbitration procedure would be necessary. Furthermore, the court ruled that such levies should not be imposed until empirical investigations had proved that PCs were actually being used to copy copyright-protected content.

The case followed an agreement between the ZPÜ and the *Bundesverband Computerhersteller e. V.* (Federal Association of Computer Manufacturers - BCH) on copyright levies on PCs. After the computer manufacturers affiliated to the *Zentralverband Informationstechnologie und Computerindustrie* (Central Association of Information Technology and the Computer Industry - Zitco) objected to such a tax, Zitco asked to begin related negotiations with the ZPÜ. During these negotiations, the ZPÜ indicated that it was already working on a tariff and intended to publish it in the Federal Gazette in the following few days. Zitco then requested the temporary order in order to avoid being presented with a *fait accompli* by the ZPÜ. The ZPÜ had argued that, since the BCH represented the interests of the market leaders and covered more than 70% of the German PC market, the agreement with the BCH on the levy for PCs should apply to all manufacturers.

In the Munich Appeal Court's opinion, the agreement does not, as the ZPÜ claims, take into account the interests of the industry as a whole and cannot therefore be used as the basis for calculating the levy.

***Oberlandesgericht München vom 19. Februar 2010, Az. 6 WG 6/10***

*Munich Appeal Court, 19 February 2010, case no. 6 WG 6/10*

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