[DE] OLG München Rules on Overall Agreement Between VG Wort and German Universities

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In a decision of 24 March 2011, the Oberlandesgericht München (Munich Appeal Court -OLG) ruled on a dispute between the Wort collecting society for authors and publishing companies (VG Wort) and the Bundesländer concerning claims under Article 52a of the Urheberrechtsgesetz (Copyright Act - UrhG).

The plaintiff, VG Wort, wanted the defendants, the 16 Bundesländer, in their role as university providers, to conclude a so-called overall agreement, to be valid from 1 January 2008, in accordance with the Urheberrechtswahrnehmungsgesetz (Copyright Collection Act - UrhWG). The claims were not disputed on the merits.

In its ruling refusing the application, the OLG laid down an overall agreement with effect from 1 January 2008, with tariffs around half way between the amounts suggested by the parties. The OLG ruled that fees should be based on usage rather than a flat rate. It also considered the fees suggested by the plaintiff to be unreasonable and drew up its own fee proposal. Furthermore, it held that it was only necessary to make works available to the public in the sense of the provision if the required part of the work was not made available in digital form under reasonable conditions by the relevant rightsholder for use on the respective institution’s network.

The court authorised an appeal to the Bundesgerichtshof (Federal Supreme Court) on the grounds that the issues of usage-based fees and the size of those fees were significant for a large number of cases.

Pressemitteilung des OLG zum Urteil vom 24. März 2011 (Az. 6 WG 12/09)

http://www.justiz.bayern.de/gericht/olg/m/presse/archiv/2011/02984/index.php

OLG press release on the ruling of 24 March 2011 (case no. 6 WG 12/09)

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