Court of Justice of the European Union: National Courts' Jurisdiction for Copyright Infringement in other Member States

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On 3 October 2013, the Court of Justice gave a preliminary ruling in the Case of Peter Pinckney v. KDG Mediatech AG, C-170/12, regarding the jurisdictional rules set out in the Council Regulation (EC) No. 44/2001.

Mr Pinckney claimed to be the author of 12 songs which were recorded by the group Aubrey Small on a vinyl record. The record was then, without his consent, reproduced on compact discs by an Austrian company named Mediatech, which were subsequently sold by companies in the United Kingdom on their website. This website was accessible from Toulouse, France, where Mr Pinckney lived. He sued Mediatech before the Regional Court of Toulouse, where Mediatech questioned the jurisdiction of the court. After an appeal from the Court of Appeals of Toulouse, the case came before the Court of Cassation which requested a preliminary ruling with regards to the jurisdiction of the French courts.

The Court noted that, in addition to the general rule that attributes jurisdiction to the court where the defendant is domiciled, the Regulation contains a special jurisdictional rule in Article 5(3) for matters relating to tort, delict or quasi-delict. Jurisdiction to hear such actions is already established in favour of the court seized, i.e. the court of the place where the harmful event occurred or may occur subject to the following conditions: where “the Member State in which the court is situated protects the copyrights relied on by the plaintiff”; and where “the harmful event alleged may occur within the jurisdiction of the court seized”. According to the Court, this place may vary according to the nature of the right alleged to be infringed and also depends on which court is best placed to ascertain whether or not the alleged infringement is well founded. It is, however, not required that the harmful activity is ‘directed to’ the Member State of the court seized.

The likelihood of such a harmful event occurring arises from the possibility that a reproduction of the copyrighted work can be obtained from a website which is accessible from the Member State of the court seized.

Hence, the Court held that “in the event of alleged infringement of copyrights protected by the Member State of the court seized, the latter has jurisdiction to hear an action to establish liability brought by the author of a work against a

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company established in another Member State and which has, in the latter State, reproduced that work on a material support which is subsequently sold by companies established in a third Member State through an internet site also accessible from the jurisdiction of the court seized." However, the jurisdiction of the court seized only extends to the damage caused in the Member State of the court seized.

Judgment of the Court (Fourth Chamber) of 3 October 2013, Peter Pinckney v. KDG Mediatech AG, Case C-170/12

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