



Press and Information

Court of Justice of the European Union

PRESS RELEASE No 125/13

Luxembourg, 3 October 2013

Judgment in Case C-170/12
Pinckney v KDG Mediatech AG

A court within whose jurisdiction a CD offered online is accessible may adjudicate on the infringement of a copyright protected in the Member State within which it is situated

Its jurisdiction is, however, limited to the damage caused in that Member State

According to the regulation on jurisdiction in civil and commercial matters¹, the courts with jurisdiction to hear a dispute are, in principle, the courts for the place in which the defendant is domiciled. However, in certain cases, the defendant may exceptionally be sued in another Member State. Thus, in matters relating to tort, delict and quasi-delict, a dispute may be brought, inter alia, before the courts of the place where the alleged harmful event occurred.

In a case referred by the Cour de cassation (Court of Cassation) (France), the Court of Justice gave a ruling today on whether, in the light of that rule of jurisdiction, the author of a protected work may bring a claim for damages before the courts for the place where he is domiciled for harm resulting from an unauthorised online offer of reproductions of his work.

Mr Pinckney, who resides in Toulouse (France), claims to be the author, composer and performer of 12 songs recorded by the group Aubrey Small on a vinyl record. He discovered that his songs had been reproduced without his authority onto a compact disc pressed in Austria by a company established in that Member State and subsequently marketed by United Kingdom companies through various internet sites accessible from Mr Pinckney's home in Toulouse. Mr Pinckney therefore sued the Austrian company before the Tribunal de grande instance de Toulouse (Regional Court, Toulouse) for damages for the harm suffered as a result of the alleged infringement of his copyright.

Since the Austrian company challenged the jurisdiction of the French courts, the dispute was brought, at last instance, before the Cour de cassation (Court of Cassation). The latter asked the Court of Justice to examine whether, in such circumstances, it must be held that the harmful event occurs in the Member State where the author is domiciled so that the courts of that State have jurisdiction.

In its judgment today, the Court notes that, in cases of infringements committed via the internet which may produce their results in various places, the place where the harmful event occurs may vary according to the nature of the right allegedly infringed. Although the harmful event may occur in a specific Member State only if the right allegedly infringed is protected there, **the identification of the place where the harmful event occurred depends, in any event, on which court is best placed to determine whether the allegation of infringement is well founded.** However, it is not a requirement for the activity giving rise to the harm to be directed to the Member State in which the court seised is situated.

The Court of Justice states that **the courts of the Member State which protects the copyright relied on by the author and in which the alleged harmful event may occur are the courts which have jurisdiction to adjudicate on an alleged copyright infringement.** That likelihood

¹Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters (OJ 2001 L 12, p.1).

may arise, in particular, from the possibility of obtaining a reproduction of the work to which the rights relied on by the plaintiff attach through an internet site accessible within the jurisdiction of the court seised. However, since the protection granted by the Member State in which the court seised is situated applies only within that Member State, **the court seised has jurisdiction to adjudicate solely with respect to the harm caused in that Member State.**

NOTE: A reference for a preliminary ruling allows the courts and tribunals of the Member States, in disputes which have been brought before them, to refer questions to the Court of Justice about the interpretation of European Union law or the validity of a European Union act. The Court of Justice does not decide the dispute itself. It is for the national court or tribunal to dispose of the case in accordance with the Court's decision, which is similarly binding on other national courts or tribunals before which a similar issue is raised.

Unofficial document for media use, not binding on the Court of Justice.

The [full text](#) of the judgment is published on the CURIA website on the day of delivery.

Press contact: Christopher Fretwell ☎ (+352) 4303 3355