

Authors against music piracy: Regional court Munich sentences online service Uploaded to pay damages

Collective management rights organisation GEMA wins its case with the regional court Munich I against file-sharing host Uploaded. The decision confirms that file-sharing hosts are liable to pay damages if they do not prevent the upload and distribution of copyright-protected contents.

The regional court Munich I has decreed on 10 August 2016 (AZ 21 O 6197/14) that online services whose business models are based on big-scale copyright infringements are liable to pay damages. “The regional court Munich has decided in the interest of our members. Their ruling confirms that file-sharing hosts play a significant role in the proliferation of music piracy” **states Dr Tobias Holzmüller, GEMA’s General Counsel**, welcoming the decision. “Online service providers have previously only been obliged to remove contents infringing copyright from their platforms. By pronouncing the liability to pay damages for file-share host Uploaded, composers, lyricists and music publishers at least get a small compensation for the rights infringements of their works that have been committed on a massive scale.”

File-share hosts such as Uploaded provide their customers with storage space so they can upload files. They create links to the uploaded files which are then disseminated as publicly accessible collections of links. The regional court Munich classifies Uploaded as a service which constitutes a specific source of risk for copyright infringements. As an “accomplice” in the illegal making available of contents protected by copyright, Uploaded should assume its responsibility, according to the judges. **Dr Harald Heker, GEMA CEO says:** “File-share hosts make a lot of money with the exploitation of creative contents. Copyright infringements are thus deliberately taken into account and accepted. This imbalance at the expense of our members is unacceptable for us. We therefore demand a legal framework where platform operators are held accountable and authors finally get their fair share in the respective proceeds. This decision is a clear signal for creatives.”

Once GEMA had pointed out the contents infringing copyright, the file-share host had not removed the files to a sufficient extent, the judges found. By its very design, the file-share host rather increased the risk of a right-infringing exploitation. The judgement is not yet legally binding.

GEMA represents the copyrights of more than 70,000 members (composers, lyricists and music publishers) in Germany, and more than two million copyright owners globally. It is one of the largest societies for authors of musical works in the world. Since 2007, GEMA has been represented in Brussels via a liaison office.

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