

By Alain Strowel, 25 October 2012

“Communication to the public” under the Court of Justice case law: Where is the limit?

Over the recent months, the Court of Justice of the EU (CJEU) has issued several decisions that attempt to define the limits of the “communication to the public right” as defined in Article 3 of the 2001/29 Directive on copyright and related rights in the information society.

It is interesting to find the criteria used by the CJEU to set the limits of what falls under the exclusive control by the copyright owner.

To do this, you could analyse some of the following decisions (You do not have to review all those cases — although it is not forbidden to do so! The Premier League decision as well as the last two decisions are the most relevant):

A. Old cases:

- 3 Febr. 2000, C-293/98, Egeda/Hoasa
- 14 July 2005, C-192/04, Lagardère

B. Turning point:

- 7 Dec. 2006, C-306/05, SGAE/ Rafael Hoteles

C. Recent decisions (since *Infopaq I*):

- 22 Dec. 2010, C-393/09, BeSoft
- 4 Oct. 2011, C-403/08 & C-429/08, Premier League
- 13 Oct 2011, C-431/09 and C-432/09, Airfield
- 24 Nov. 2011, C-283/10, Globus Circus
- 15 March 2012, C-135/10, Consorzio Fonografici v. Del Corso
- 15 March 2012, C-162/10, Phonographic Performance Ltd

Thanks for your response.



Where is the public?