



Reports of Cases

Case C-527/15

Stichting Brein

v

Jack Frederik Wullems

(Request for a preliminary ruling
from the Rechtbank Midden-Nederland)

(Reference for a preliminary ruling — Intellectual and industrial property — Directive 2001/29/EC — Harmonisation of certain aspects of copyright and related rights — Article 3(1) — Communication to the public — Definition — Sale of a multimedia player — Add-ons — Publication of works without the consent of the right holder — Access to streaming websites — Article 5(1) and (5) — Right of reproduction — Exceptions and limitations — Lawful use)

Summary — Judgment of the Court (Second Chamber), 26 April 2017

1. *Approximation of laws — Copyright and related rights — Directive 2001/29 — Harmonisation of certain aspects of copyright and related rights in the information society — Communication to the public — Definition — Sale of a multimedia player on which there are pre-installed add-ons, available on the internet, containing hyperlinks to websites on which copyright-protected works have been made available to the public without the consent of the right holders — Included*

(European Parliament and Council Directive 2001/29, Art. 3(1))

2. *Approximation of laws — Copyright and related rights — Directive 2001/29 — Harmonisation of certain aspects of copyright and related rights in the information society — Right of reproduction — Acts of temporary reproduction — Definition — Acts of temporary reproduction, on a multimedia player on which there are pre-installed add-ons available on the internet, of a copyright-protected work obtained by streaming from a website belonging to a third party offering that work without the consent of the copyright holder — Not included*

(European Parliament and Council Directive 2001/29, Art. 5(1) and (5))

1. The concept of ‘communication to the public’, within the meaning of Article 3(1) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, must be interpreted as covering the sale of a multimedia player, such as that at issue in the main proceedings, on which there are pre-installed add-ons, available on the internet, containing hyperlinks to websites — that are freely accessible to the public — on which copyright-protected works have been made available to the public without the consent of the right holders.

(see para. 53, operative part 1)

2. Article 5(1) and (5) of Directive 2001/29 must be interpreted as meaning that acts of temporary reproduction, on a multimedia player, such as that at issue in the main proceedings, of a copyright-protected work obtained by streaming from a website belonging to a third party offering that work without the consent of the copyright holder does not satisfy the conditions set out in those provisions.

(see para. 72, operative part 2)