

# CRI Conference 2003

The new digital online world allows for new forms of distributing digital content on a global basis. New technological forms of distribution require new distribution systems and a survey of traditional licensing and distribution channels. This conference gives an overview of the technological developments and the evolving new statutory framework for digital rights management (DRM) both in the EU and the US. Experienced speakers from Europe and the US will expound new distribution systems, drafting licenses and other distribution-related contracts in both jurisdictions. Come and join us in beautiful Munich in spring!

**Friday, May 23<sup>rd</sup>, 2003**

## **I. Fundamental Issues** (EU/Germany: Heymann; USA: Prof. Nimmer)

- the new German contract law: a big step towards case law ?
- distribution right and principle of exhaustion in downloading systems
- contractual vs technological limits to usage
- user-Audit by licensor
- limits to DRM systems in antitrust law

## **II. Statutory Protection for Digital Content** (EU/Germany: Prof. Dr. Schwarz)

- music and film trailer
- newspapers, software
- approaches in copyright and in contract law
- protection against downloading, copying and further distribution

## **III. Typical Forms and Conditions of Licensing and How to Manage the Use of Licenses:** (EU/Germany: Dr. Scheja; USA: Westermeier)

- access licenses in the industry to newspapers and online-databases: pay per view etc.
- site license, corporate license, copy license,
- network license: scope of use, redistribution rights, downloading rights, typical prohibitions, field of use
- administration of content use:
  - who is authorised user?
  - how are costs covered?
  - dealing with damage claims?
- organisational measures (staff)
- rules of conduct for employees

## **IV. Licenses in Critical Situations:** (EU/Germany: Prof. Dr. Chrocziel; USA: Prof. Nimmer)

- new case law in copyright law
- new case law in competition law
- change of control / licenses in mergers
- licenses in outsourcing
- legal protection for technical protection devices

## **V. Changes of the Legal Framework for Data Protection** (EU/UK: Millard)

- technical design of international databases
- collection of personal data
- secondary use
- profiling

## **VI. International Exhaustion vs EU-wide Exhaustion – Possibilities in Drafting Distribution Systems** (EU: Dr. Gaster)

- new case law of the ECJ
- prevention of parallel import, re-import
- consequences for online-distribution and for downloading-systems
- new ECJ case law in trademark law and its implications on copyright law
- relationship to clauses binding distribution
- right to control distribution of legitimate digital copies

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## VII. New Legal Framework for Digital Rights and Technological Protection Systems

(EU: Samnadda; Netherlands: Prof. Hugenholtz; Industry: Dr. Rojczyk)

### 1. Which Digital Rights are Affected and What are Their Limits?

- replication
- making available
- right of public performance
- administration by collecting societies
- principle of Territoriality

### 2. Private Copy vs Technological Protection Measures

- distinction between private and commercial copy/use
- can copyright exemptions be circumvented by contracts?
- scope of a license: automatic growth with technological improvement
- the future of levies: how can technological measures be 'taken into account'?
- protecting technological measures against circumvention
- what measures are "appropriate" to protect the interests of users?

### 3. Fundamental Issues Revisited

- will contract law substitute copyright law?
- distribution right and principle of exhaustion in downloading systems
- contractual v. technological limits to usage
- user-audit by licensor
- limits to DRM systems in antitrust law

## VIII. Licensing and Drafting Contracts at the Interface Between Intellectual Property and Antitrust (EU: Dr. Gaster; Germany: Dr. Bosch; USA: Bender)

- general conflict of antitrust law and copyright - situation under EC competition law and national competition laws
- distribution restrictions (licensing restrictions) under copyright law and their compliance with antitrust law; group exemption under Reg. 2790/1999
- antitrust aspects of restrictions regarding the use of licensed software

**Conference language is English and simultaneous translation into German and English will be available in case of sufficient demand.**

### Who should attend?

In-house counsel of German and international corporations, legal advisers of software producers and distributors, clipping-services, online-databases, collecting societies, publishing and phonographic industry

### Timing

**Friday, May 23<sup>rd</sup>, 2003**

9.30 a.m. – 6.00 p.m.

7.30 p.m. evening program for speakers and participants, including dinner buffet

**Saturday, May 24<sup>th</sup>, 2003**

9.00 a.m. – 1.30 p.m.

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