

European Union

“Filmspeler”

Decision of the European Court of Justice (Second Chamber)
26 April 2017 – Case No. C-527/15

Stichting Brein v. Jack Frederik Wullems
(*a.k.a. Filmspeler*)

Directive 2001/29/EC, Arts. 3(1), 5(1)
and (5)

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Keywords Communication to the public · Sale of a multimedia player · Add-ons · Publication of works without the consent of the right holder · Access to streaming websites · Right of reproduction

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.
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.