
Kluwer Copyright Blog

Copyright Levies' War Rages in Spain (continued)

Francisco Javier Cabrera Blázquez (European Audiovisual Observatory) · Monday, April 11th, 2011

As mentioned in a previous [post](#), on 22 March 2011 the Spanish Audiencia Nacional (High Court) [annulled](#) for formal reasons the Spanish [ordinance](#) that determines which digital reproduction equipment and media are subject to the private copying levies.

The ordinance had been challenged before the Spanish courts by the [Asociación de Internautas](#) (an Internet users' association - AI) for reasons similar to those put forward in the Padawan case, notably that the indiscriminate application of a private copying levy to all types of digital equipment and media, regardless of the purpose for which they were intended (private use or other professional or commercial activities) is arbitrary and therefore illegal. Moreover, AI also pointed out the absence of the mandatory opinion by the State Council and other obligatory reports in the procedure for adoption of the Ordinance.

In its judgment, the Audiencia Nacional took the easy way out and annulled the Ordinance for the aforementioned formal flaws without deciding whether or not the rules concerning the private copying levies are legal.

The Spanish collecting societies have already [announced](#) that they will appeal the judgment before the Supreme Court. In the meantime, the uncertainty grows as to the current application of private copying levies in Spain and especially concerning the fate of those monies already paid under an allegedly flawed system.

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