A matter of interpretation: libraries land a ‘victory’ in CJEU’s judgment on e-lending

November 21, 2016

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Yes, e-lending can land just as much under the public lending right.

This is what the European Court of Justice is in its preliminary ruling in the case between Vereniging Stichting Openbare Bibliotheken v. J. Zwart (Case C-376/15) decided the decision could be the interpretation. It is an important judgment, because it means that the Gonzalez case involving e-lending in the UK (C-357/13) and the Bäcker case concerning e-lending in Germany (C-362/13) may eventually be a nullity. The Gonzalez case was actually descriptive rather than normative. In any case, dissatisfied with the outcome, the European Court of Justice (ECJ) wanted to clarify the relevant legal rules of the Copyright Directive through its judgment. In the judgment, the ECJ held that the law is in line with the Digital Media and Entertainment Directive, which laid down the legal framework for the legal protection of the public lending right.

The decision clarifies that the concept of lending as defined in the Copyright Directive includes e-lending. The judgment also clarifies that the legal protection of the public lending right is not limited to physical lending, but also includes e-lending. The judgment further clarifies that the legal protection of the public lending right is not limited to material copies of works, but also includes the lending of digital copies.

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