

Press information

Munich, September 15th 2008

Microsoft backs down again

Software monopolist loses its main arguments in the present lawsuit because of used software/ Judgment of the Higher Regional Court rendered in the Oracle matter has not become final and absolute yet, and it only applies to Oracle software

Again, Microsoft must take allegations back which were spread by the company regarding the trade with used software. In this context, a legally binding declaration was submitted by Microsoft's lawyers towards usedSoft. As a result, the software monopolist has lost its main arguments being used in the course of the ongoing defamation campaign against usedSoft. In doing so, Microsoft's lawyers prevented a provisional injunction and accepted on their own initiative to pay a contractual penalty, if Microsoft repeats such allegations again.

In future, Microsoft will no longer claim that the most recent judgment of the Higher Regional Court rendered in the Oracle matter would be a final decision regarding the trade with used software. The statement that in all respects the judgment would have marked an end for the trade with used software in support of the software developer will also not be made anymore.

As a consequence, both statements are only allowed to be made, if Microsoft emphasizes at the same time that the decision has not become final and absolute yet. For this reason, these allegations have no informative value at all anymore. After all, it will last for years until a final decision will be passed by the German Federal Supreme Court. Based on existing caselaw, observers proceed on the assumption that the German Federal Supreme Court will pass a decision in support of the trade with used software then.

"In fact, it cannot be called a final decision, not even a decision to consider the matter closed", said usedSoft's Managing Director Peter Schneider in Munich today. "It is rather true that the judgment of the Higher Regional Court of Munich has not even become final and absolute, and that it also only refers to Oracle software."

In this context, it was emphasized in the judgment of the Regional Court of Munich which was rendered in the Microsoft matter only recently that the two cases (the Oracle software case and the Microsoft software case) cannot be compared with one another. Oracle had also submitted similar arguments to the Higher Regional Court. In the judgment rendered in the Microsoft matter which has become final and absolute, the Regional Court of Munich correctly decided "that the sale respectively the disposal of individual Microsoft software licences which had been delivered within the scope of volume licence contracts before, is generally possible even without Microsoft's consent in an effective way."

During the last few weeks, Microsoft has been more and more using most unfair means in order to push unpleasant competitors out of the market. In the opinion of legal experts, Microsoft has chosen this route, as due to the judgment rendered in the past the company must be proceeding on the assumption that it will be defeated by usedSoft before court.

Information about usedSoft

usedSoft was set up in 2003, and it is a leading European supplier of used software originating from all application fields. Buyers of usedSoft licences are companies as well as software dealers. Customers of usedSoft are, among others, companies such as Edeka, KarstadtQuelle, Neckermann, Rewe, the Law Office Holme Roberts & Owen, as well as a leading soccer club belonging to the German Soccer League and a number of different Savings Banks. German authorities are more and more using used software as well: Next to the Bavarian State Capital of Munich, the German Federal Social Court in Kassel, the Municipal Administration of Bad Salzuflen and the Data Central Office of Baden-Württemberg, there were more than 100

additional local authorities benefiting from usedSoft licences. The cost-saving benefit when buying used licenses ranges between 20 and 50 percent.

www.usedsoft.com

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