

## Press information

Munich, June 30<sup>th</sup> 2009

# The trade with Microsoft OEM-licences is not affected by judgment

**Microsoft has never denied the trade with own OEM-licences / “the liberalised software market cannot be stopped”**

The decision about OEM-licences passed by the Higher Regional Court of Düsseldorf, dated June 29, 2009, exclusively applies to the OEM-licences of a special software for lawyers. This software brings special requirements regarding application and customizing with it, and it therefore constitutes a special case. For now, usedSoft has stopped the trade with such licences so far. However, without having the written grounds for the judgment at hand, all speculations would be nothing but prematurely submitted statements. This especially applies to any statements regarding the exhaustion rule.

However, this judgment does definitely not apply to OEM-licences in general. Moreover, Microsoft has never denied the resale of OEM-licences of its own brand. On the contrary, in well-known cases, Microsoft has even subsequently declared that the licence transfers effected by usedSoft were lawful. This also concerned the Municipality of Munich, whereby the Mayor of Munich let his words cited in this context as follows: “Microsoft submitted a written confirmation that everything would be okay under licence law aspects.”

usedSoft’s trade is mainly focused on the trade with volume licences anyway. And, according to the judgments rendered by the Regional Courts of Munich and Hamburg in a final and absolute way, individual software licences originating from Microsoft volume licence contracts can be definitely resold second-hand. In this context, the Regional Court of Munich rendered a judgment in April of last year “that the sale respectively the disposal of individual Microsoft software licences which had been sold within the scope of volume licence contracts is generally possible in an effective way even without Microsoft’s consent.”

“Any other assertions are nothing but another unashamed attempt of the compulsive monopolist to take advantage of and to misuse not relevant judgments like the decisions passed by the Higher Regional Courts of Munich and Frankfurt to make the more than 1.600 customers of usedSoft insecure”, emphasised usedSoft’s Managing Director Peter Schneider in Munich today. “But even such a conduct cannot stop the liberalised software market.”

### **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 Salzufflen 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 purchasing already used licences ranges between 20 and 50 percent of the sales price. usedSoft has more than 2.000 customers in about 20 European countries.

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