

The Appeal Court of Barcelona has rendered a judgment against the Universidad Autónoma in Barcelona for intellectual property infringement of the copyrights of the authors and editors of certain books. The University created an intranet-based digital platform or virtual campus for students and lecturers who could access it by means of a user name and a password. Lecturers uploaded information and didactic materials of the subjects, including total or partial copies of books protected by copyright, as textbooks or handbooks.

The legal action was brought by CEDRO, an organization responsible for the management of the copyrights of works, which had previously tried to reach an agreement for a compensation fee with the University.

The Appeal Court rejected all arguments stated by the University and has ordered the University to pay CEDRO a compensation fee of €5 for each registered student.

With regards to the University's arguments, the Appeal Court rejected the alleged lack of active legitimization because CEDRO did not act on behalf of all the authors of the books uploaded. The Appeal Court applied the Spanish High Court precedents that state that any organization responsible for the management of copyrights has active legitimization to bring legal actions to defend the copyrights even if the specific authors, whose rights have been infringed, never instructed it to defend their copyrights, because it is necessary to have the administrative authorization to manage such rights.

The University alleged also that it was not the University which uploaded the materials but the lecturers, and therefore the actions had to be brought against the lecturers and not against the University. The Appeal Court rejected this allegation because the owner of the intranet was the University, which set forth the rules for uploading the materials and for student access to the platform. In fact, lecturers were under the hierarchy and control of the University and, accordingly, the University should not be considered as a mere provider of information society services with regards to the lecturers, as alleged by the University, but the intranet was considered as a didactic tool of the University.

Finally, with reference to the compensation fee for damages, the Appeal Court ordered the University to pay CEDRO €5 per registered student, the same amount agreed with other universities that use similar platforms.

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