

# discount-licensing

## Market Update: August 2012

### Hamburg Court Issues Injunction Against Microsoft

Further to last month's landmark [Court Judgement of the CJEU](#) against Oracle (Case C-128/11 - 3<sup>rd</sup> July 2012), in which the legalities of second-hand software licensing was re-affirmed, a district court of Hamburg (Germany) has subsequently issued a temporary injunction against Microsoft - *Court Reference: 327 O 396/12* (9<sup>th</sup> August 2012): [ITExpresso.de - "Gebrauchtsoftware: Schlappe für Microsoft bei Aufspaltung von Volumenlizenzen"](#).

The Hamburg court has ruled that Microsoft is not permitted to continue spreading incorrect statements surrounding the second-hand Volume software licence market; otherwise, it will be in breach of the injunction imposed by the Hamburg court. Should Microsoft breach the terms of the injunction, it could be fined up to €250,000 in each case and face up to 2 years imprisonment.

#### Summary of injunction:

Microsoft would be technically in breach of the Hamburg court injunction if it continues to make one of the following statements:

1. "the resale of Microsoft Volume licences is not allowed without the permission of the copyright holder";
2. "the resale of software licences (from a Microsoft Volume Licence Agreement) to third parties is inadmissible / not permitted";
3. "the resale of second-hand software is governed by the transfer terms of the software vendor's Licence Agreement".

This court ruling puts yet another dent in Microsoft's FUD (Fear, Uncertainty & Doubt) tactics that the software vendor has adopted since Discount-Licensing created the secondary market in Microsoft Volume software licensing back in 2004/5. Should you require further information regarding this case, please send your query to [info@discount-licensing.com](mailto:info@discount-licensing.com) or telephone +44 (0)845 475 5959 to speak to a representative.

Regards,

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