

2. The principle of legal certainty does not preclude an administrative practice of the national tax authorities whereby, within a limitation period, they revoke a decision by which they granted the taxable person the right to deduct value added tax and then, following a fresh investigation, order him to pay that tax together with default interest.

(<sup>1</sup>) OJ C 379, 8.12.2012.

**Judgment of the Court (Fourth Chamber) of 13 February 2014 (request for a preliminary ruling from the Svea hovrätt — Sweden) — Nils Svensson, Sten Sjögren, Madelaine Sahlman, Pia Gadd v Retriever Sverige AB**

(Case C-466/12) (<sup>1</sup>)

*(Reference for a preliminary ruling — Approximation of laws — Copyright and related rights — Directive 2001/29/EC — Information society — Harmonisation of certain aspects of copyright and related rights — Article 3(1) — Communication to the public — Meaning — Internet links ('clickable links') giving access to protected works)*

(2014/C 93/18)

Language of the case: Swedish

#### Referring court

Svea hovrätt

#### Parties to the main proceedings

Applicants: Nils Svensson, Sten Sjögren, Madelaine Sahlman, Pia Gadd

Defendant: Retriever Sverige AB

#### Re:

Request for a preliminary ruling — Svea Hovrätt — Interpretation of Article 3(1) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society (OJ 2001 L 167, p. 10) — Research and monitoring website offering its subscribers a service of access to protected works, in return for payment — Provision by a person other than the author of the work or his assignees of a link on the former's web page giving access to the work.

#### Operative part of the judgment

1. Article 3(1) of Directive 2001/29/EC of the European Parliament and of the Council of 22 May 2001 on the harmonisation of certain aspects of copyright and related rights in the information society, must be interpreted as meaning that the provision on a

website of clickable links to works freely available on another website does not constitute an 'act of communication to the public', as referred to in that provision;

2. Article 3(1) of Directive 2001/29 must be interpreted as precluding a Member State from giving wider protection to copyright holders by laying down that the concept of communication to the public includes a wider range of activities than those referred to in that provision.

(<sup>1</sup>) OJ C 379, 8.12.2012.

**Judgment of the Court (Third Chamber) of 13 February 2014 (request for a preliminary ruling from the Bundesgerichtshof — Germany) — H. Gautzsch Großhandel GmbH & Co. KG v Münchener Boulevard Möbel Joseph Duna GmbH**

(Case C-479/12) (<sup>1</sup>)

*(Reference for a preliminary ruling — Intellectual property — Community designs — Regulation (EC) No 6/2002 — Articles 7(1), 11(2), 19(2), 88 and 89(1)(a) and (d) — Unregistered Community design — Protection — Making available to the public — Novelty — Action for infringement — Burden of proof — Extinction of rights over time — Time-barring — Applicable law)*

(2014/C 93/19)

Language of the case: German

#### Referring court

Bundesgerichtshof

#### Parties to the main proceedings

Appellant: H. Gautzsch Großhandel GmbH & Co. KG

Respondent: Münchener Boulevard Möbel Joseph Duna GmbH

#### Re:

Request for a preliminary ruling — Bundesgerichtshof — Interpretation of the first sentence of Article 7(1), Article 11(2), Article 19(2) and Article 89(1)(a) and (d) of Council Regulation (EC) No 6/2002 of 12 December 2001 on Community designs (OJ 2002 L 3, p. 1) — 'Making available to the public' — Burden of proving that contested use results from copying the unregistered design — Design presented in showrooms lying beyond the usual field of observation of the profession and then made available to an undertaking in those specialised circles without any conditions of confidentiality — Whether the right to obtain an injunction prohibiting any use by a third party has been extinguished over time — Time-barring — Determining the law applicable to disputes concerning infringement and invalidity of Community designs.