

Munich, 9th November 2005
Tel: 089/2195.2673
Reference: Sch-Urh 38/02

COURT OF ARBITRATION
governed by the law on use of copyright and related protection
by the German office for patent and trademarks

In the general agreement procedure

the German national association within the International Union of the Phonographic Industry -
registered association- ("IFPI"), represented by their Chief Executive Mr. Peter Zombik,
Oranienburger Straße 67/68, 10117 Berlin

- Petitioner -

Authorised procedural agent:
Solicitors Böhmert & Böhmert, Meineckenstraße 26, 10719 Berlin

against

the Society for musical performances and mechanical copyright ("GEMA"), represented by its
directors, Professor Dr. Reinhold Kreile (Chairman), Professor Dr. Jürgen Becker and Mr.
Rainer Hilpert, Rosenheimer Straße 11, 81667 Munich.

- Opposing the petition -

Authorised procedural agent:
Solicitors Becker Büttner Held, Untere Weidenstraße 5, 81543 Munich

the arbitration court, governed by the law on use of copyright and related protection accorded
by the German office for patent and trademarks through its Presiding Portmann, its Assistant
Fehlhammer and its Akintche on the basis of the oral procedure of 14th April, 2005 and that of
25th October, 2005 proposes the following

partial-agreement proposal

Regarding music video DVDs, the following general agreement is proposed to the interested parties:

Music video–DVD general agreement

Between

the Society for musical performances and mechanical copyright (“GEMA”), represented by its directors, Professor Dr. Reinhold Kreile (Chairman), Professor Dr. Jürgen Becker and Mr. Rainer Hilpert, Rosenheimer Straße 11, 81667 Munich

and

the German national association within the International Union of the Phonographic Industry - registered association- (“IFPI”), represented by their Chief Executive Mr. Peter Zombik, Oranienburger Straße 67/68, 10117 Berlin

the following

General agreement

about the reproduction of works in the GEMA repertoire as music videos (video clips and concert videos) on DVDs (Digital Versatile Discs) and their distribution for personal (private) use is concluded:

1. Agreement support:

The IFPI promises to provide to GEMA support for the Agreement. This support includes the following provisions

- a) *at the conclusion of the Agreement the IFPI will hand over to GEMA an exact listing of the addresses of their members and will promptly advise them of any subsequent changes;*

- b) *the members of IFPI will be encouraged to promptly apply to GEMA for the necessary consent via the conclusion of a individual agreement and to fulfil their obligations stipulated in the agreement within the stipulated timeframe,*
- c) *the fulfilment of the written and spoken requirements of GEMA will be aided via appropriate explanations.*

2. In consideration of the Agreement support GEMA agrees to grant IFPI members, if they have acquired this consent via the attached "individual agreement" (model) the preferential tariffs mentioned within this (model) contract.

3. Prohibited action:

GEMA's rights over music videos that have not obtained such consent remain unaffected.

4. Differences of opinion

In order to avoid a legal dispute in the case of differences of opinion with members of the IFPI, GEMA will notify the IFPI so that it can contact the member in question. However, if within one month from the date of this notification an amicable resolution has not been reached, each party has the right to recourse to the normal legal procedure.

5. The duration of the agreement:

The agreement will remain valid

from 1st January 2002 until 31st December 2007.

Berlin
(Date)

Munich
(Date)

.....
(Company stamp / signature)

.....
(Company stamp / signature)

- Appendix to the Music video–DVD general agreement:

Music video–DVD individual agreement

between

the GEMA Society for musical performances and mechanical copyright, Rosenheimer Straße
11, 81667 Munich,

represented by its general director and Chairman, Professor Dr. Reinhold Kreile,

- subsequently referred to as, "GEMA," –

and

.....

represented by their chief executive

- subsequently referred to as, "Licensee," –

about the reproduction of works in the GEMA repertoire as music videos (video clips and
concert videos) on DVDs (Digital Versatile Discs) and their distribution for personal (private)
use is concluded the following

Agreement

Article I – GEMA's REPERTOIRE

GEMA's repertoire includes the works for which it has been entrusted with or will be entrusted with the administration of mechanical reproduction – and distribution rights, particularly in its quality of member of BIEM, and this to the extent to which GEMA has been entrusted with the administration.

Article II – THE SUBJECT OF THE AGREEMENT

(1) The subject of the agreement is the exploitation of the works within the GEMA repertoire as music videos (video clips and concert videos) recorded upon appropriate media as specified in paragraph (3). In the following text the simplified expression "music video," will be used.

(2) GEMA gives the Licensee within the conditions and constraints of the agreement in question the non-exclusive Licence to record work within the GEMA repertoire on music videos, to copy and to distribute such videos for sale to the public for private consumption under their own trademark or trademarks.

*The Licence for the respective GEMA repertoire ceases to be valid **ex tunc** (retroactively) when the relevant contractual compensation is not paid.*

(3) The foregoing agreement relates solely to music videos that are found on the following media formats that were recognised as at 1st of January, 2002:

DVD (Digital Versatile Disc)

Excluded from the terms of this agreement are music videos that are found on other media formats than those specified above, on multi-media formats (inclusive of, for example, ROM-Part or Datalink), on audio media and those found on media that contains film content.

(4) *With regard to the secondary use of television productions as music videos the following provisions of GEMA's mandate have to be mentioned: :*

"With regard to television productions GEMA grants the production rights to the television institutions and their own advertising associations insofar as one of their own productions or a contract production for use in one of their own programmes (or one that they have taken over) is concerned. The consent of the right holder is nevertheless required when third parties are involved in the production or if the television production is to be used by third parties. This applies especially to co-productions."

(5) *Excluded from the terms of this agreement are music videos which include graphic rights (music score sheet and/or test pictures) and/or existing material rights; these rights are subject to an authorisation of the right holder. Further excluded from the terms of this agreement are the so-called, "Grand Rights".*

(6) *The right to publicly perform and reproduce music videos, the right to broadcast, produce in order to broadcast and the rights to rent or loan those videos according to art. 27 of the German law governing authors' right remain unaffected by the terms of this agreement*

(7) *The Licensee is not authorised to sub grant the copyright and distribution rights as stipulated in paragraph (1) above.*

Article III – THE AUTHOR'S PERSONAL RIGHTS

The validation of claims for damages to the author's personal rights remains reserved.

Article IV – EXPLOITED TRADEMARKS

(1) *The rights specified in Article II (1) of the terms of this agreement will only be granted to the trademarks of the Licensee, namely to:*

.....

- (2) *The same rights will be extended to any new trademarks that the Licensee may bring out or begin to exploit, under the condition that he informs GEMA of his intention to do so.*

Article V – WORKS REQUIRING COMPENSATION AND COMPENSATION TARIFFS

(1) Protection

Compensation obligations will derive from each work protected in its country of origin; for not edited works, this will be the country of the author's nationality and for published work either the country of the author's nationality or the country in which the work was first published (whichever legal framework affords the longest period of protection is chosen). The standard period of protection is that accorded by the legal system in the country where the music videos are sold except in the case where such a period would transgress the period of protection suggested by the legal framework in the country of origin, but without prejudice to bi- or multilateral international conventions.

(2) Adaptation or arrangement

When GEMA requests payment from the Licensee for an adaptation or arrangement which it administers, then its licit and original character is considered sufficiently proven by the issuance of a graphical publication under this designation with the name of those performing the adaptation. Concerning an unpublished adaptation or arrangement, its original character and legality will be presumed, except if the contrary is proven, and this uniquely based on the fact that the work in question has been deposited or registered in compliance with the relevant rules of the competent collective management organisation before the date of its recording and if this deposition or registration has been accepted.

(3) Compensation

The Licensee pays to GEMA for each music video including one or more works of the GEMA repertoire compensation for the concessionary rights according to the following tariff:

Tariff VR-T-H 3 (annex 1) for the reproduction of works of the GEMA repertoire recorded as music videos (video clips and concert videos) on DVDs (Digital Versatile Discs) and their distribution for personal and private use.

The term "licensee" within this agreement is synonymous with the term "producer," as used in Tariff VR-T-H 3 refers to the Licensee.

The percentage of compensation according to section I, number 1 of Tariff VR-T-H 3 amounts to 6.99% for members of the German national association of the IFPI. The minimum compensation for members of the German national association of the IFPI follows section I, number 1.b) - minimum compensation and the maximum number of works and parts of a work on one compact disc – as well as section II of VR-T-H 1 in the version dated 1st July 1997 (published in, "Bundesanzeiger," number 20 of 29th January 2000, S.1416) but with the obligation to grant a contractual deduction of 20%

(4) The relevant legal value added tax is added to this compensation (at the conclusion of the Agreement 7%).

(5) Timing of the compensation payments

The compensation for the exploitation of copyright and distribution rights relating to the works of the GEMA repertoire is payable when the music videos leave the Licensee's warehouse

(6) Returns

Copies that are given to a third party and are then returned can be included in the statistics and will be acknowledged by GEMA.

The number of returns of a music video during the settlement period cannot exceed the number of copies of the music video in question that have been distributed. An excess number of returns can be carried forward to the following settlement period, however.

Within 12 months of the date of the first distribution of a music video (except those promoted on radio, television and cinemas) during each settlement period, GEMA will invoice 90% of the distributed amount determined according to paragraph (5) above and the two paragraphs of paragraph (6) above. At the end of the settlement period, which occurs 18 months subsequent to its beginning (that is, the date of the first distribution of a copy of the music video) GEMA will invoice the outstanding 10% if necessary taking into account the returned copies of the music video.

For music videos that are promoted on radio, television and in cinemas i.e. which are published and distributed by their producers with a new catalogue number, these will be subject to a compensation payment under the terms of this agreement as follows: the Licensee is authorised during a period ending 12 months after the beginning of the settlement period (that is, the date of the first distribution of a copy of the music video) to specify 50% of the amount of music videos that will be subject to a compensation payment in the current settlement period, amount determined according to paragraph (5) above and the two paragraphs of paragraph (6) above.. At the end of the settlement period, which occurs 18 months subsequent to its beginning (that is, the date of the first distribution of a copy of the music video) the Licensee will specify the outstanding 50% if necessary taking into account the returned copies of the music video.

(7) Bargain sales

Contrary to the conditions contained within paragraph (3) above, the compensation for those music videos that have been deleted from the Licensee's catalogue and which, no earlier than six months after the date of the first distribution of a copy of the music video, are distributed "on sale" shall be 10% of the producer's gross price without any other reduction than tax and charges. The number of music videos that are subject to these conditions cannot exceed 10% of the number of music videos distributed in the prior year.

Copies exempted from compensatory payment

- (8) Complimentary, promotional copies will, up to 50% of the number of the first distribution of a new publication and subject to a maximum of 750 copies, be excluded from any obligation to pay compensation. In those cases where an identical and parallel publication of a music video takes place on different media, the upper limit of 750 copies applies to the formats in question added together. Such copies cannot be commercially used and must be appropriately marked as such.*
- (9) The Licensee must maintain an appropriate distribution register for control purposes to include arrivals in the distribution centre, despatches, returns and complimentary copies in respect of each and every music video.*

Article VI – OBLIGATIONS OF THE LICENSEE

Public communication requirements

- (1) All music videos containing one or a part of one of the works in the GEMA repertoire must display a rectangular facsimile of GEMA of about 10 x 8 mm.
- (2) The following notice must be included in a label on each music video in the language of the producer or of the country in which it is to be sold:

“All rights of the producer and of the owner of the work reproduced reserved. Unauthorized copying, hiring, lending, public performance and broadcasting of this music video prohibited”

- (3) The labels on the music videos must include, in addition to the title of the reproduced work or works, the name of the composer, of the lyricist and of those responsible for any adaptation of the lyrics or music as well as the name of the publisher. Technical and practical difficulties are judged following the principal sentence of the, “in truth and good faith,” declaration.

Catalogues and supplements – price lists

- (4) The Licensee is required to provide to GEMA, without cost and in a prompt manner:
 - a) Two copies of all his catalogues, catalogue supplements and new publications.
 - b) Two copies of lists with the music video’s list prices for the retail trade (PPD). These lists must be kept up-to-date.
- (5) Upon request by GEMA, the Licensee will provide a free copy of any specific music video.

Article VII – CO-EXPLOITANT OF THE PRODUCER

- (1) In the context of this agreement collaborators of the Licensee are companies or individuals who in any way collaborate in the production or reproduction of music videos issued under the trademark of the Licensee.

- (2) *Upon request the Licensee is required to provide GEMA with a declaration by his co-exploitant, which confirms that he will, so far as he is required to, uphold the principles contained in article IX of the current agreement.*
- (3) *GEMA shall be notified of copying by a third-party appointed by the Licensee. The Licensee will assume, together with the third-party entire responsibility for any damage committed with intent or via gross negligence in the course of the latter's actions on behalf of the Licensee as a result of any of the copying activities prohibited within this agreement. The Licensee will impose on the third party which has been entrusted with copying, an obligation to grant GEMA supervisory (control) rights in the spirit of Article XI of the current agreement.*

Article VIII – NOTIFICATION CONCERNING THE MUSIC VIDEOS

- (1) *The Licensee is must acquire the rights granted following Article II, paragraph (2) of the current agreement, by following the regular notification procedure set out in the following paragraph (2).*
- (2) *The Licensee is required, within a short period of time and in any case before the distribution of the music videos, to make available a listing of the works that he intends to exploit. This should also be the case where he intends to exploit music videos that are subject to the current licensing agreement under a different catalogue number. Technical and practical difficulties are judged following the principal sentence of the, "in truth and good faith," declaration.*

GEMA will inform the Licensee of the works in its repertoire that feature in these lists as soon as possible. The Licensee's license according to Article II paragraph 2 of this agreement, concerning the reproduction and distribution rights will be confirmed when GEMA, trusting the information contained in these lists, has informed him that the registered works are part of its repertoire and if the Licensee has adhered to this notification.

- (3) *If the Licensee proves to GEMA before delivery of use of the rights that certain works are subject to buy-out contracts from the American continent that are valid in Germany, GEMA will respect those rights, and the works in question will not be subject to this contract.*

It is agreed that the certifications P.M. (non-member), S.A.I. (status currently unknown) and P.A.I. (owner currently unknown) will under no circumstances constitute an authorisation that matches one from GEMA.

- (4) The notifications of recording are to be carried out as specified in appendix 2, which is an integrated component of the current agreement.*

The usual procedure involves notification by means of the exchange of electronic data (via the use of GEMA – supplied Excel spreadsheets or via standard electronic processes).

Adaptation and evolution of the notification process will be promptly announced following approval with the German national association of the IFPI -registered association.

- (5) Technical and practical difficulties arising from the application of this regulation are included following the principal sentence of the, “in truth and good faith,” declaration.*

Article IX – SETTLEMENT

- (1) The settlement for each music video in the GEMA repertoire is determined in Appendix 3, which is an integrated component of the current agreement.*

- (2) The usual procedure involves settlement by means of the exchange of electronic data (via the use of GEMA – supplied Excel spreadsheets or via standard electronic processes).*

Adaptation and evolution of the settlement process will be promptly announced following approval with the German national association of the IFPI -registered association.

- (3) Technical and practical difficulties arising from the application of this regulation are included following the principal sentence of the, “in truth and good faith,” declaration.*

Article X – FINANCIAL OBLIGATIONS OF THE LICENSEE

Settlement periods and settlement

- (1) The settlement period in respect of those music videos attracting compensation amounts to six months, beginning on 1st January and 1st July, of each year.*

The period within which the Licensee has to settle with GEMA amounts to one month after the closure of the settlement period.

- (2) *The payment for each settlement period, including residual payments, will be paid by the Licensee in respect of the relevant period and together with value-added tax at the relevant official rate, within 15 days after receipt of GEMA's invoice, which is based on the statement of outgoings related to the period in question.*

Permanent deposit.

- (3) *The Licensee provides, as a permanent deposit of the receipt of the compensation and of the fulfilment of all the clauses of the current agreement, a cash deposit to be held by GEMA, the amount of which is determined by GEMA but which cannot exceed the estimated quarterly amount of compensation. The amount of this guarantee will be reviewed every six months so that it complies with the predetermined amount on an on-going basis. If there is a half-year review when the amount of this guarantee is found to be insufficient, the Licensee is obliged to make good any deficiency. If the half-year review finds that the amount of this guarantee is in excess of that required, the superfluous amount will be credited to the account of the Licensee. A permanent deposit must be at least Euro 1,500.00 and can be replaced by a bank guarantee.*

- (4) *Interest accruing from a guarantee deposited in cash in a bank determined by GEMA is passed to the Licensee.*

- (5) *GEMA is entitled in the case of payment delays to satisfy itself from the guarantee*

(6) *Partial payment*

The Licensee is obligated in respect of each quarter-year until 10.01., 10.04., 10.07. and 10.10 to pay a proportional share of the due compensation. The invoice in respect of an advance is calculated, unless, in certain exceptional cases, something else has been fixed in writing between GEMA and the Licensee, on the basis of the quarterly average contribution paid for the same settlement period of the prior year.

The value-added tax at the relevant official rate on the advance is payable simultaneously.

(7) Changes in the legal status

In the relationship between GEMA and the Licensee, any change in the legal status of a work will become effective from the beginning of the settlement period during which such changes become known.

(8) Supplementary payments

The period for which supplementary payment demands on the part of GEMA and refund demands on the part of the Licensee can be made extends to three years prior to the beginning of the settlement period during which such demand is made, if such a demand is based upon a mistake on the part of the demander. If a supplementary payment demand is made to a new member and the period during which the demand can be made began before their date of joining, none but the legal time constraint will apply. This supplementary payment demand will be resolved in accordance with the current agreement. In all circumstances GEMA will inform the Licensee of all changes in legal status or other developments, upon which the supplementary payment demand is based.

(9) Claims by a third party

If GEMA and a third party, who is not a member of GEMA, demand simultaneously from the Licensee all or part of the rights attaching to one and the same work, the Licensee pays GEMA if GEMA presents an earlier title as that of the third party. GEMA will then guarantee the Licensee against any claims that might be brought by a third party in that respect.

(10) *If a third party claims the rights to a work which, formerly was declared by GEMA with S.A.I. or P.A.I., then the Licensee can inform GEMA of this claim with the consequence that GEMA is then required, within a period not extending beyond three months after the reception of such a notification, to register the valid ownership details. If this is not done the work in question is regarded as, "P.M." When the work is declared or regarded as P.M. and the Licensee has paid a third party, GEMA will waive any subsequent demand to the Licensee if it turns out that the third party had a right to receive the compensation.*

Article XI – CONTROL BY GEMA

(1) *The Licensee is obligated to inform GEMA of the place where the music videos will be produced and of the location of his premises.*

- (2) *GEMA has the most extensive right to control every activity of the Licensee that is related to the terms of the current agreement. As a consequence, qualified GEMA auditors have unrestrained access to the workshops, premises and offices of the Licensee and this access cannot be refused, nor can it be postponed upon any pretext of the Licensee. He is obligated to provide all information which allows random checks of the manufacture, the reception and despatch as well as the stock of the music videos. In addition, the Licensee must provide GEMA with all help required on the part of his collaborators and particularly on the part of the producers (who carry out the copying).*
- (3) *GEMA and other parties mandated by GEMA in the auditing work, are obliged to treat any information that they acquire during the execution of such work as confidential; vis-à-vis third parties they have an obligation to remain silent.*

Article XII - SANCTIONS

- (1) *Should the Licensee not fulfil his obligations deriving from this agreement despite a written warning and when GEMA has further admonished him via registered letter with the notification of a last delay of 15 days, , then GEMA has the right to prematurely renounce the Agreement with an effective date of the end of the current month. The claims for damages on behalf of the injured party remain in such circumstances unaffected, as do all other remaining claims for the duration of the agreement.*
- (2) *In the case of the suspension of payment, excessive indebtedness, settlement or bankruptcy proceedings, GEMA is entitled to renounce the agreement immediately and to demand at once compensation for possible unlicensed production of music videos from the GEMA repertoire.*
- (3) *Where the Licensee does not fulfil any of the following obligations, he must pay GEMA interest as set out in § 288, section 1, clause 1 of the German civil code.*
- a) *In the case of non-observance of the time limit derived from the application of Article X, paragraph (1), interest will accrue on the amount of compensation due for the missing accreditation or settlement.*
 - b) *Should music videos or works be found to be missing during accreditation or settlement, interest will accrue on the amount of compensation in respect of the missing music videos or works.*

- c) *In the case of a delay or insufficiency in payment of a partial payment as defined in Article X, paragraph (6), interest will accrue on the amount of partial payment that remains owing.*

- d) *For every payment that is not made within the time limits specified within the Article X, paragraph (2) the same interest applies.*

Article XIII – THE DURATION OF THE AGREEMENT

The agreement will remain valid

from 1st January 2002 to 31st December 2007.

Article XIV – FINAL PROVISIONS

- (1) *GEMA's right to demand damages for any use of its repertoire, for which the authorization has not been acquired in compliance with the terms of this contract remain unaffected.*

- (2) *No verbal secondary agreements to this contract have been made. Changes, completions or the annulment of this agreement must take a written form to be valid. Should one or the other of the provisions within this agreement be or become invalid, the validity of what remains shall not be affected. The presumption of § 139 of the German civil code is explicitly excluded.*

Unclear or invalid provisions should be replaced by such provisions as are closest to the intended economic objectives of the agreement.

- (3) *The agreement is subject to German law.*

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(Location) (Date)

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(Location) (Date)

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(Company stamp / signature)

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(Company stamp / signature)

- Appendix 1 to 3 to the Music video–DVD individual agreement: