

## Press Release

Swiss Federal Court decision

# ETH-Bibliothek document delivery service is legal

Zurich, 18 December 2014

**Libraries do not infringe copyright by delivering copies and scans of scientific publications, the Swiss Federal Supreme Court has concluded. This reverses the judgment of Zurich Commercial Court.**

The core responsibilities of every academic library typically include procuring and preparing a wide array of information, as well as making it accessible to users in an appropriate form. This includes the delivery of copies and scans of scientific publications.

At the end of 2011, three internationally renowned companies – the publishers Elsevier, Springer and Georg Thieme – filed a claim against ETH Zurich and the ETH-Bibliothek in Zurich Commercial Court with the aim of prohibiting this well-established document delivery service for customers within Switzerland.

The main arguments of the plaintiffs in this case were put forward by the representatives of the publishers, claiming that they have their own in-house document delivery services and that the activities of the ETH-Bibliothek violate the relevant provisions of Swiss copyright law.

### **Commercial Court accepted publisher arguments**

In its judgment of 7 April 2014, Zurich Commercial Court largely accepted the arguments put forward by the above-mentioned publishers and prohibited the ETH-Bibliothek from continuing to provide the document delivery service in question, i.e. charging a fee to send publications. The judgment also made certain statements regarding the so-called "concept of the work", the adherence to which could have had significant consequences for all libraries in Switzerland.

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ETH Zurich lodged an appeal against the judgment with the Swiss Federal Supreme Court in Lausanne on 20 May 2014, with the aim of overturning the judgment from April in order to continue to provide the successful document delivery service in the future.

### **Interests of science and teaching have prevailed**

The Swiss Federal Supreme Court issued its decision on 28 November 2014, and ETH Zurich was successful on all points. The previous judgment was overturned in all respects, and the claim by the above-mentioned publishers was dismissed in full. This means that the ETH-Bibliothek will still be able to send copies of publications to interested users within Switzerland, actively supporting the academic landscape.

It can therefore be said that in this case, the interests of science, research and teaching have prevailed over the commercial interests of a few publishing houses. ETH Zurich's persistence in this matter has made a significant contribution to safeguarding Switzerland as a hub for science.

[www.library.ethz.ch](http://www.library.ethz.ch) →

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### **Further Information**

ETH Zurich  
Dr. Wolfram Neubauer  
Director ETH-Bibliothek  
Phone: +41 44 632 25 49  
wolfram.neubauer@library.ethz.ch

ETH Zurich  
Media Relations  
Phone: +41 44 632 41 41  
mediarelations@hk.ethz.ch