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Protection improved for license agreements by recently submitted bill in Germany

Thomas Musmann (Rospatt Osten Pross) · Friday, May 25th, 2012

by Bernward Zollner

Earlier this year the Ministry of Justice has submitted a bill which intends to grant a better protection to license agreements in case the licensor has to file a motion for the commencement of insolvency proceedings. According to the current statute the liquidator (insolvency administrator) has the right to terminate a license agreement. The suggested new regulation shall give the statutory right to licensee to request the liquidator to continue the license agreement under reasonable conditions. While the request of licensee is receiving attention by the liquidator the licensee shall have the right to continue the use according to the conditions of the terminated license agreement. If no other license agreement is concluded within three months upon the licensee's request the licensee shall have a right to continue the use according to the conditions of the former license agreement under the two further conditions that (1) a reasonable royalty is paid by the licensee and (2) the licensee submits evidence within a term of two weeks that he has filed an action requesting the court to order that a license agreement be concluded. Altogether this scheme will give the licensee the chance to reconsider his situation within a time of four months and to launch an action asking for the conclusion of the new license agreement which in most cases will bring the advantage of gaining additional time.

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