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Abstract:

The aim of the paper is to draw a picture of the legal situation after the Court of Justice of the European Union judgment in *UsedSoft* case (3.7.2012, C-128/11). The Court stated that the online sales of the licensed software files shall be treated under certain conditions the same as sales of tangible copies with all its consequences, especially the ones concerning the exhaustion of the right to market the work. According to the abovementioned judgment a software copy once it has been sold shall be free to be resold. The process of the computer program file sale/resale can take one of three forms: resale by non-licensee, by licensee but without the license and by licensee including the license. The paper describes precisely all legal aspects of these forms of software online resale, with particular emphasis on the legal basis of the use of software by acquirer in each case and the possibility to apply the rights of the legal acquirer of computer program (article 5.1 of the software directive 2009/24/EC). Last but not least the author tries to describe the legal possibilities and consequences of the CJEU judgment implementation into the Polish legal system, concluding that it would be very difficult without the substantial changes in the Polish copyright act.