

## **JUS5660 Midterm fall 2019**

In case C-128/11 (UsedSoft) the CJEU found that the rule on exhaustion of the distribution right in Article 4 of the Computer Program Directive (Directive 2009/24/EC) applied to digital downloads of computer programs. In his recent opinion in case C-263/18 (Tom Kabinet), the Advocate General suggests that the distribution right in Article 4 of the Infosoc Directive (Directive 2001/29/EC) is not applicable to the downloads of e-books and therefore that no rule of exhaustion applies in this case.

**Question: Discuss the Advocate General's reasons for distinguishing between computer programs and ebooks in this respect and give your own reasoned opinion on this issue (max 2500 words).**