

26th January 2012

Dr Tord Riemann, ZFITTER spokesperson
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Germany
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Dear Dr Riemann,

In what follows, we provide the response from the EPJC editors-in-chief (in consultation with the publisher given the complexity of the case) on the accusation of violation of publication integrity in the article of H. Flächer et al., EPJC60 (2009) 543. EPJC can only comment on matters concerning this specific EPJC publication, and not on the many other problems and cases of concerns and disputes which are discussed in the complainant's letter.

Referring to the complainant's 4 points under 3.2 of his letter from 23-11-2011, we make the following statements:

1. "Software of ZFITTER has been copied-pasted-integrated into Gfitter/GSM and so used as a basic ingredient of the article. No referencing, so it is a case of "Plagiarism" in Springer's terminology."

EPJC: ZFITTER is Open Source software, published under CPC license which states (<http://cpc.cs.qub.ac.uk/licence/licence.html>):

"This licence entitles the licensee (one person) and the licensee's research group to obtain a copy of the source or executable code and to use the acquired program for academic or non-profit use within a research group...

Publications which result from using the acquired program will reference the article in Computer Physics Communications which describes the program."

We note that in EPJC60,543 the relevant references (refs 5 and 6) to the original ZFITTER publications in CPC are cited at various places: in the introduction and, more specifically, in Appendix A3. In an erratum to EPJC60,543, namely in EPJC71,1718, the reference to usage and - specifically - the implementation of ZFITTER code into Gfitter GSM is made more explicit. In the view of EPJC, the requirement of proper referencing is therefore fulfilled, and is in accordance with the CPC license. EPJC, therefore, does not see any justification to take actions against the authors of EPJC60,543.

We note that a subtlety may remain in the question as of what "scientific usage of the code" includes in the broader sense, namely if it is restricted to using the code as-is, or if copying and altering the original code is also permitted. Here we refer to the common practice of e.g. using Monte Carlo generator code by a

large number of scientists who, as we observe, not only run that original code, but alter and copy parts of it according to their specific (scientific) needs. Such Monte Carlo codes exist, in a wide variety, under similar or identical license terms, as Open Source software, and we are not aware of any case where "usage" or implementation of (parts of) such code, with proper references, has ever led to the accusation of plagiarism.

2. "The integration of ZFITTER software into Gfitter/GSM made, efficiently, these ZFITTER authors also to co-authors of Gfitter/gsm according to German Urheberrechtsgesetz. Because they are not on the authors list of the article EPJ C60 (2009) 543, this is a case of "Unacknowledged authorship" in Springer's terminology."

EPJC: according to our reasoning above, and due to the fact that EPJC60,543 is a publication on physics results obtained with improved code, but NOT a publication of the code itself, we do not see any justification in the request for co-authorship by the complainant.

3. "The Appendices A.3 and A.4 [which both are crucial for the entire article] have been created from two latex text sources written by ZFITTER authors. No referencing, so it is a case of "Plagiarism" in Springer's terminology."

EPJC: As far as we can see from the material supplied by the complainant, this "copy/paste" basically refers to equations. Equations, once published, are of course meant to be used and reproduced by other authors, whereby proper reference to the original work proposing these equations should be given wherever appropriate (there are basic and commonly known equations where such referencing is not possible or not necessary). According to our view, there is no intellectual achievement nor property in the actual LaTeX coding of such equations. We do not see that this fulfills the common understanding of plagiarism in any way.

4. "The integration of the two latex text sources written by ZFITTER authors made, efficiently, these ZFITTER authors also to co-authors of the article EPJ C60 (2009) 543 according to German Urheberrechtsgesetz. Because they are not on the authors list of the article EPJ C60 (2009) 543, this is a case of "Unacknowledged authorship" in Springer's terminology."

EPJC: Again, as we do not consider the LaTeX coding of commonly accessible equations to be a scientific achievement nor an intellectual property, we do not see any justified right of the complainant to be considered co-author of EPJC60,543.

The previous statements are a result of our own investigations and opinions on this matter taking a "common sense" approach to the interpretation of plagiarism, both in general and concerning this specific case.

Also, as you quote yourself in the document you have submitted, an already performed investigation by DESY has concluded bad communication from both sides (G/ZFitter) as main problem at the origin of the dispute more than anything else. Both parties, whether or not this is now "undone" a posteriori, had at the time also at least one joint member.

Last but not least, we have for the sake of completeness, also considered the whole case from a purely legal viewpoint. Here, in our opinion and as anticipated by us in an earlier letter to you, you provide yourself the answer in your submitted document on page 5 (quote):

— “Although Gfitter did not admit copy-paste of ZFITTER, it was, at the same time, emphasized at that meeting by the DESY director for particle physics that DESY allows the Gfitter team to use ZFITTER completely in the manner they like to do. DESY assumes to have the exclusive legal rights of ZFITTER, and to have in addition the right to use them arbitrarily. According to a case study of the legal department of DESY. This was confirmed in Nov. 2011 by that department. *ZFITTER did not [and does not] agree on that, but details of using the property rights [vermögensrechtliche Nutzungsrechte] of a software like ZFITTER are complicated and cannot be resolved for this case here*”

— The italics are our emphasis. What you deem not possible is precisely the crucial point, which - as long as unsolved - renders the remainder of your document simply irrelevant from the purely legal viewpoint. It should be quite obvious that the journal is no legal instance and cannot arbitrate between the complainant and his employers.

If you thus insist that matters are taken along the legal, rather than the “common sense” road, you need now to take your action to a level where you involve the legal institutions yourself.

— If as outcome of such legal actions we at EPJ C are to take further actions, this will be addressed of course. Until this happens, the final decision by EPJ C is therefore to close the case and no appeal will be considered.

The Editors-in-Chief of EPJ C
S. Bethke, Munich, Germany
G Isidori, Frascati, Italy